

2-13-2009

## State v. Manzanares Clerk's Record v. 1 Dckt. 35703

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Vol. 1 of 7

**LAW CLERK**  
(VOLUME I)

IN THE  
**SUPREME COURT**  
OF THE  
**STATE OF IDAHO**

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**STATE OF IDAHO,**

**Plaintiff-  
Respondent,**

**-VS-**

**SIMONA LISA MANZANARES,**

**Defendant-  
Appellant.**

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Appealed from the District of the Third Judicial District  
for the State of Idaho, in and for Canyon County

Honorable THOMAS J. RYAN, District Judge

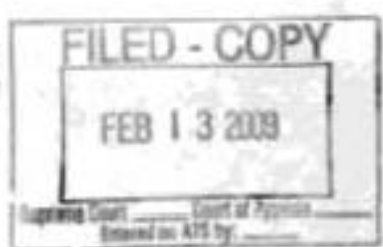
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Molly Huskey  
State Appellate Public Defender  
3647 Lake Harbor Lane  
Boise, Idaho 83703

Attorney for Appellant

Lawrence G. Wasden  
Attorney General  
Statehouse  
Boise, Idaho 83720

Attorney for Respondent



**35703**

IN THE SUPREME COURT OF THE  
STATE OF IDAHO

STATE OF IDAHO,	)	
	)	
Plaintiff-	)	
Respondent,	)	
	)	Supreme Court No. 35703
-vs-	)	
	)	
SIMONA LISA MANZANARES,	)	
	)	
Defendant-	)	
Appellant.	)	

Appeal from the Third Judicial District, Canyon County, Idaho.

HONORABLE THOMAS J. RYAN, Presiding

Molly Huskey, State Appellate Public Defender, 3647 Lake Harbor Lane,  
Boise, Idaho 83703

Attorney for Appellant

Lawrence G. Wasden, Attorney General, Statehouse, Boise, Idaho 83720

Attorney for Respondent

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## Felony

Date		Judge
2/27/2007	New Case Filed-Felony Hearing Held- PC Criminal Complaint Warrant Issued - Arrest Bond amount: 250000.00 Defendant: Manzanares, Simona Liza Case Status Changed: Inactive	Robert M. Taisey Robert M. Taisey Robert M. Taisey Robert M. Taisey Robert M. Taisey
	Document sealed	
3/1/2007	Hearing Scheduled (Arraignment (In Custody) 03/01/2007 01:30 PM) Warrant Returned Defendant: Manzanares, Simona Liza Case Status Changed: Activate (previously inactive) Hearing result for Arraignment (In Custody) held on 03/01/2007 01:30 PM: Arraignment / First Appearance Hearing result for Arraignment (In Custody) held on 03/01/2007 01:30 PM: Constitutional Rights Warning Change Assigned Judge Hearing Scheduled (Preliminary Hearing 03/14/2007 10:00 AM)	James A. (J.R.) Schiller Robert M. Taisey Robert M. Taisey James A. (J.R.) Schiller James A. (J.R.) Schiller William B. Dillon William B. Dillon
3/2/2007	Notice Of Appearance - Richard L. Harris Request For Discovery	William B. Dillon William B. Dillon
3/9/2007	Motion for Bond Reduction and Notice of Hearing Hearing Scheduled (Motion Hearing 03/14/2007 09:00 AM)	William B. Dillon William B. Dillon
3/13/2007	Request For Discovery Demand For Notice Of Defense Of Alibi Pa's Response For Request For Discovery	William B. Dillon William B. Dillon William B. Dillon
3/14/2007	Hearing result for Preliminary Hearing held on 03/14/2007 10:00 AM: Continued Hearing Scheduled (Preliminary Hearing 03/21/2007 10:00 AM) Hearing result for Motion Hearing held on 03/14/2007 09:00 AM: Motion Held Hearing result for Motion Hearing held on 03/14/2007 09:00 AM: Motion Denied-for bond reduction	William B. Dillon William B. Dillon William B. Dillon William B. Dillon William B. Dillon
3/19/2007	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Elsa Sanchez Receipt number: 0236043 Dated: 3/19/2007 Amount: \$10.00 (Cash)	William B. Dillon
3/21/2007	Hearing result for Preliminary Hearing held on 03/21/2007 10:00 AM: Preliminary Hearing Waived (bound Over) Hearing result for Preliminary Hearing held on 03/21/2007 10:00 AM: Order Binding Defendant Over to District Court Hearing Scheduled (Arrn. - District Court 03/30/2007 09:01 AM) Order/DCA Motion For Bond Reduction/ NOH	William B. Dillon William B. Dillon William B. Dillon Gordon W Petrie Gregory M Culet Gregory M Culet
3/22/2007	Information	Gregory M Culet
3/29/2007	Hearing Scheduled (Arrn. - District Court 03/30/2007 09:00 AM) *CULET-bond reduce-PT-MAY 21@3:00-JT-JUNE 5@9:00	Gordon W Petrie

000001

## Felony

Date		Judge
3/29/2007	Pa's First Supp/Response For Request For Discovery	Gregory M Culet
3/30/2007	Bond Posted - Surety (Amount 75000.00 )	Gregory M Culet
	Notice of Bond Posted	Gregory M Culet
	Hearing result for Arrn. - District Court held on 03/30/2007 09:00 AM: Continued *CULET-bond reduce-PT-MAY 21@3:00-JT-JUNE 5@9:00	Gordon W Petrie
	bond reduced to \$75000.00 and defendant to report to pretrial release	Gordon W Petrie
	Hearing result for Arrn. - District Court held on 03/30/2007 09:00 AM: Upon Posting Bond - Report to Pre-Trial Release *CULET-bond reduce-PT-MAY 21@3:00-JT-JUNE 5@9:00	Gordon W Petrie
	Hearing Scheduled (Arraignment (In Custody) 04/13/2007 09:00 AM)	Juneal C. Kerrick
4/2/2007	Order continuing hearing to date certain	Gregory M Culet
4/13/2007	Hearing result for Arrn. - District Court held on 04/13/2007 08:59 AM: Arraignment / First Appearance CULET - PT JUNE 21 9AM JT JULY 31-AUG 1 9AM	Juneal C. Kerrick
	Hearing Scheduled (Pre Trial 06/21/2007 09:00 AM)	Gregory M Culet
	Hearing Scheduled (Jury Trial 07/31/2007 09:00 AM) STNW	Gregory M Culet
4/18/2007	Defendant's Request For Specific Discovery	Gregory M Culet
4/26/2007	Affidavit of Pre-Trial Release Officer	Gregory M Culet
	Warrant Issued - Bench Bond amount: 500000.00 Fail to comply with sanctions Defendant: Manzanares, Simona Liza	Gordon W Petrie
	Case Status Changed: Inactive	Gregory M Culet
	Findings and Order to Issue Arrest Warrant for Violating Terms of Release and Order Setting Bail	Gordon W Petrie
4/27/2007	Warrant Returned Fail to comply with sanctions Defendant: Manzanares, Simona Liza	Gregory M Culet
	Case Status Changed: Activate (previously inactive)	Gregory M Culet
5/3/2007	Motion quash arrest warrant/set bond NOHR/warrant already served	Gregory M Culet
	Motion shortening time to motion to quash warran/set bail	Gregory M Culet
	Affidavit of R Harkins	Gregory M Culet
	Affidavit of G. Rivera	Gregory M Culet
	Hearing Scheduled (Motion Hearing 05/04/2007 09:00 AM) CULET-Motion to Quash Arrest Warrant	Gordon W Petrie
	Affidavit of Simona Manzanares	Gregory M Culet
5/4/2007	Hearing result for Motion Hearing held on 05/04/2007 09:00 AM: Motion Held CULET-Motion to Quash Arrest Warrant-ALREADY SET	Gordon W Petrie
	order to rel. on original bond	Gordon W Petrie
5/7/2007	Motion to extend time for filing of PT motions/NOHR	Gregory M Culet
5/15/2007	PA's Second Supplemental Response to Request for Discovery	Gregory M Culet
5/17/2007	Hearing Scheduled (Jury Trial 08/14/2007 09:00 AM) STNW	Gregory M Culet
5/18/2007	Amended Notice Of Hearing	Gregory M Culet
3/12/2007	Motion to Dismiss and Notice of Hearing	Gregory M Culet

000002

## Felony

Date		Judge
6/12/2007	Hearing Scheduled (Motion Hearing 07/03/2007 10:00 AM) Motion to Dismiss	Gregory M Culet
6/21/2007	Hearing result for Pre Trial held on 06/21/2007 09:00 AM: Continued extend time to file PT motions	Gregory M Culet
	Supplementary Motion to Dismiss and Notice of Hearing	Gregory M Culet
7/2/2007	State's response to def's motion to dismiss	Gregory M Culet
	Lodged- Memorandum in Support of Defendant's Motion to Dismiss	Gregory M Culet
	Hearing result for Motion Hearing held on 07/03/2007 10:00 AM: Continued Motion to Dismiss cont'd PT	Gregory M Culet
	Hearing Scheduled (Motion Hearing 07/16/2007 10:00 AM) and pre-trial conference	Gregory M Culet
	Hearing Scheduled (Motion Hearing 07/27/2007 09:00 AM) and pre-trial conference	Gregory M Culet
7/3/2007	Amended Notice Of Hearing	Gregory M Culet
	Second Amended Notice Of Hearing	Gregory M Culet
7/27/2007	Hearing result for Motion Hearing held on 07/27/2007 09:00 AM: Motion Held and pre-trial conference	Gregory M Culet
	Hearing result for Motion Hearing held on 07/27/2007 09:00 AM: Motion Denied and pre-trial conference	Gregory M Culet
	count 1 to be dismissed unless the State files a motion to amend with in 7 days	Gregory M Culet
7/31/2007	Hearing Scheduled (Conference - Status 08/07/2007 09:00 AM)	Gregory M Culet
8/1/2007	Motion to Amend Information and Notice of Hearing	Gregory M Culet
8/2/2007	Notice Of Hearing/Status hearing	Gregory M Culet
8/7/2007	Hearing result for Jury Trial held on 08/14/2007 09:00 AM: Hearing Vacated STNW	Gregory M Culet
	Hearing result for Conference - Status held on 08/07/2007 09:00 AM: Motion Held Mtn to Amend Information	Gregory M Culet
	Hearing result for Conference - Status held on 08/07/2007 09:00 AM: Motion Granted Mtn to Amend Information	Gregory M Culet
	awaiting stp and ordr to remand back to mag crt for ph	Gregory M Culet
	Order granting motion to amend information	Gregory M Culet
	Amended Information	Gregory M Culet
	Order Denying Mo to Dismiss	Gregory M Culet
8/9/2007	Stipulation to Remand Proceeding for Preliminary Hearing	Gregory M Culet
8/13/2007	Order Remanding Proceeding for Preliminary Hearing	Gregory M Culet
8/15/2007	Order Setting Case	George A Southworth
	Hearing Scheduled (Preliminary Hearing 08/30/2007 10:00 AM)	Gregory F. Frates
8/30/2007	Hearing result for Preliminary Hearing held on 08/30/2007 10:00 AM: Preliminary Hearing Held	Gregory F. Frates
	Hearing result for Preliminary Hearing held on 08/30/2007 10:00 AM: Order Binding Defendant Over to District Court	Gregory F. Frates

000003



## Felony

Date		Judge
8/30/2007	Hearing result for Preliminary Hearing held on 08/30/2007 10:00 AM: Bound Over (after Prelim)	Gregory F. Frates
	Hearing Scheduled (Arrn. - District Court 09/07/2007 01:30 PM)	Gordon W Petrie
9/4/2007	Second Amended Information	Thomas J Ryan
9/7/2007	Hearing result for Arrn. - District Court held on 09/07/2007 01:30 PM: Arraignment / First Appearance *RYAN-PT-NOV 13@2:00-JT-DEC 4@9:00	Gordon W Petrie
	Hearing Scheduled (Pre Trial 11/13/2007 02:00 PM)	Thomas J Ryan
	Hearing Scheduled (Jury Trial 12/04/2007 09:00 AM) nwst	Thomas J Ryan
9/10/2007	Order setting pretrial conference and jury trial	Gordon W Petrie
9/19/2007	Motion to extend time for filing PT motions/NOHR	Thomas J Ryan
	Hearing Scheduled (Motion Hearing 10/15/2007 10:30 AM) Extend time file PT motions	Thomas J Ryan
	Motion for order to produce prelim hearing transcript	Thomas J Ryan
9/20/2007	Notice Of Hearing	Thomas J Ryan
	Hearing result for Pre Trial held on 11/13/2007 02:00 PM: Hearing Vacated	Thomas J Ryan
	Hearing Scheduled (Pre Trial 11/14/2007 02:00 PM)	Thomas J Ryan
9/21/2007	Order for preparation of preliminary hearing transcript	Thomas J Ryan
9/24/2007	Estimated Cost of Transcript (\$253.50)	Thomas J Ryan
10/3/2007	PA's Third Supplemental Response to Request for Discovery	Thomas J Ryan
10/12/2007	Amended Notice Of Hearing for Motion to Extend Time for Filing PT Motns	Thomas J Ryan
	Hearing result for Motion Hearing held on 10/15/2007 10:30 AM: Hearing Vacated Extend time file PT motions	Thomas J Ryan
	Hearing Scheduled (Motion Hearing 11/05/2007 11:30 AM) motn to extend time for filing PT motns	Thomas J Ryan
	Bond Posted - Cash (Receipt 271571 Dated 10/12/2007 for 253.50)	Thomas J Ryan
11/5/2007	Hearing result for Motion Hearing held on 11/05/2007 11:30 AM: Hearing Held motn to extend time for filing PT motns	Thomas J Ryan
	Hearing result for Motion Hearing held on 11/05/2007 11:30 AM: Motion Granted motn to extend time for filing PT motns	Thomas J Ryan
11/14/2007	Transcript Filed (Preliminary Hearing)	Thomas J Ryan
	Bond Converted (Transaction number 34827 dated 11/14/2007 amount 253.50)	Thomas J Ryan
	Hearing result for Jury Trial held on 12/04/2007 09:00 AM: Hearing Vacated nwst	Thomas J Ryan
	Hearing result for Pre Trial held on 11/14/2007 02:00 PM: Continued	Thomas J Ryan
	Hearing Scheduled (Pre Trial 01/02/2008 02:00 PM)	Thomas J Ryan
	Hearing Scheduled (Jury Trial 01/23/2008 09:00 AM)	Thomas J Ryan
12/17/2007	Witness List	Thomas J Ryan
	State's proposed jury instructions	Thomas J Ryan
	Motion to Dismiss	Thomas J Ryan

000004

Date: 11/25/2008

Time: 08:02 AM

Page 5 of 8

Third Judicial District Court - Canyon County

ROA Report

User: HEIDEMAN

Case: CR-2007-0005446-C Current Judge: Thomas J Ryan

Defendant: Manzanares, Simona Liza

State of Idaho vs. Simona Liza Manzanares

Felony

Date		Judge
12/27/2007	Points, Authorities and Facts in Opposition to Motion to Dismiss	Thomas J Ryan
1/2/2008	Hearing result for Pre Trial held on 01/02/2008 02:00 PM: Interim Hearing Held	James C. Morfitt
	Hearing result for Pre Trial held on 01/02/2008 02:00 PM: Pre-trial Order	James C. Morfitt
1/4/2008	Notice Of Hearing/Motion to dismiss	Thomas J Ryan
	Hearing Scheduled (Motion Hearing 01/22/2008 01:30 PM) To dismiss	Thomas J Ryan
	Notice of Intent	Thomas J Ryan
1/14/2008	Notice of Intent Rule 404(b), I.R.E Evidence	Thomas J Ryan
	PA's Fourth Supplemental Response to Request for Discovery	Thomas J Ryan
1/16/2008	Def's Response For Request For Discovery	Thomas J Ryan
1/22/2008	Hearing result for Motion Hearing held on 01/22/2008 01:30 PM: Hearing Held To dismiss	Thomas J Ryan
	Hearing result for Jury Trial held on 01/23/2008 09:00 AM: Hearing Vacated	Thomas J Ryan
2/8/2008	Memorandum Decision and Order Denying Motion to Dismiss	Thomas J Ryan
	Order Setting Trial and Status Conference	Thomas J Ryan
	Hearing Scheduled (Conference - Status 05/12/2008 02:00 PM)	Thomas J Ryan
	Hearing Scheduled (Jury Trial 05/20/2008 09:00 AM)	Thomas J Ryan
3/12/2008	Motion of Defendant to Order the State to Specify Each and Every Proposed Gang Expert Opinion and to Disclose the Specific Basis for Each Separate Opinion and Memorandum	Thomas J Ryan
3/17/2008	Notice Of Hearing/State to provide specific basis for each opinion	Thomas J Ryan
	Hearing Scheduled (Motion Hearing 04/18/2008 09:00 AM) Motn for expert	Thomas J Ryan
	Sheriffs Return on Subpoena - served L. Anderson @ACSO	Thomas J Ryan
3/31/2008	State's response to def's motion regarding expert testimony	Thomas J Ryan
4/4/2008	Pa's Fifth Supplemental Response For Request For Discovery	Thomas J Ryan
4/18/2008	Hearing result for Motion Hearing held on 04/18/2008 02:30 PM: Continued Motn for expert	Thomas J Ryan
	Hearing Scheduled (Motion Hearing 05/07/2008 01:30 PM)	Thomas J Ryan
4/24/2008	Motion to Continue and Notice of Hearing	Thomas J Ryan
5/7/2008	Pa's Sixth Supp/Response For Request For Discovery	Thomas J Ryan
	Hearing result for Motion Hearing held on 05/07/2008 01:30 PM: Hearing Held Motion to Continue	Thomas J Ryan
	District Court Hearing Held Court Reporter: Kim Saunders Number of Transcript Pages for this hearing estimated: less than 100	Thomas J Ryan
5/8/2008	Hearing result for Conference - Status held on 05/12/2008 02:00 PM: Hearing Vacated	Thomas J Ryan
	Hearing result for Jury Trial held on 05/20/2008 09:00 AM: Hearing Vacated	Thomas J Ryan
	Hearing Scheduled (Conference - Status 06/30/2008 02:30 PM)	Thomas J Ryan
	Hearing Scheduled (Jury Trial 07/14/2008 09:00 AM)	Thomas J Ryan

000005

## Felony

Date		Judge
5/9/2008	Order to Continue and Reset Case	Thomas J Ryan
6/5/2008	Pa's Seventh Supp/Response For Request For Discovery	Thomas J Ryan
6/27/2008	Hearing Scheduled (Motion Hearing 06/30/2008 02:00 PM) Motion to Dismiss	Thomas J Ryan
	Motion to dismiss and notice of hearing	Thomas J Ryan
6/30/2008	Pa's Eighth Supplemental Response For Request For Discovery	Thomas J Ryan
	Hearing result for Motion Hearing held on 06/30/2008 02:00 PM: Continued Motion to Dismiss	Thomas J Ryan
	Hearing result for Conference - Status held on 06/30/2008 02:30 PM: Interim Hearing Held	Thomas J Ryan
	Hearing result for Conference - Status held on 06/30/2008 02:30 PM: District Court Hearing Held Court Reporter: Kim Saunders Number of Transcript Pages for this hearing estimated: less than 100	Thomas J Ryan
	Hearing Scheduled (Motion Hearing 07/10/2008 11:00 AM) mot to dismiss	Thomas J Ryan
7/10/2008	Hearing result for Jury Trial held on 07/14/2008 09:00 AM: Hearing Vacated	Thomas J Ryan
	Hearing result for Motion Hearing held on 07/10/2008 11:00 AM: Hearing Held mot to dismiss	Thomas J Ryan
	Hearing result for Motion Hearing held on 07/10/2008 11:00 AM: Change Plea To Guilty Before H/t - count I	Thomas J Ryan
	Hearing Scheduled (Sentencing 08/26/2008 01:30 PM) PSI ordered	Thomas J Ryan
	District Court Hearing Held Court Reporter: Kim Saunders Number of Transcript Pages for this hearing estimated: less than 100	Thomas J Ryan
	Conditional plea of guilty pursuant to ICR 11(d)(3) and binding plea agreement	Thomas J Ryan
8/26/2008	Hearing result for Sentencing held on 08/26/2008 01:30 PM: Continued PSI ordered	Thomas J Ryan
	Hearing Scheduled (Sentencing 08/28/2008 01:30 PM)	Thomas J Ryan
	District Court Hearing Held Court Reporter: Kim Saunders Number of Transcript Pages for this hearing estimated: less than 100	Thomas J Ryan
8/28/2008	Hearing result for Sentencing held on 08/28/2008 01:30 PM: Hearing Held	Thomas J Ryan
	Hearing result for Sentencing held on 08/28/2008 01:30 PM: Final Judgement, Order Or Decree Entered	Thomas J Ryan
	Hearing result for Sentencing held on 08/28/2008 01:30 PM: Sentenced To Incarceration	Thomas J Ryan
	Hearing result for Sentencing held on 08/28/2008 01:30 PM: Commitment - Held To Answer	Thomas J Ryan
	Hearing result for Sentencing held on 08/28/2008 01:30 PM: Notice to defendant upon sentencing	Thomas J Ryan
	District Court Hearing Held Court Reporter: Kim Saunders Number of Transcript Pages for this hearing estimated: over 100	Thomas J Ryan

## Felony

Date		Judge
8/28/2008	Notice of Lodging (Letters)	Thomas J Ryan
9/9/2008	Motion to Dismiss Count Two	Thomas J Ryan
9/10/2008	Order to Dismiss Counts Two	Thomas J Ryan
	Dismissed (I18-8505 Criminal Gang-Supply Firearms to Criminal Gang )	Thomas J Ryan
	Case Status Changed: closed	Thomas J Ryan
9/11/2008	Judgment and commitment	Thomas J Ryan
9/12/2008	Surety Bond Exonerated (Amount 75,000.00)	Thomas J Ryan
9/18/2008	Case Status Changed (batch process)	
9/25/2008	Motion pursuant to rule 35 ICR	Thomas J Ryan
	Notice Of Hearing Motion Pursuant to Rule 35 ICR	Thomas J Ryan
	Hearing Scheduled (Motion Hearing 10/27/2008 09:30 AM) Mtn Pursuant to R35 ICR	Thomas J Ryan
	Notice of Appeal	Thomas J Ryan
	Appealed To The Supreme Court	Thomas J Ryan
	Motion to Withdraw and Notice of Hearing	Thomas J Ryan
	Hearing Scheduled (Motion Hearing 10/31/2008 09:00 AM) Withdraw as Attorney of Record	Thomas J Ryan
	Motion for transport order	Thomas J Ryan
10/1/2008	Objection to Rule 35 Motion and Request for Hearing	Thomas J Ryan
10/2/2008	S C - Order Regarding Amended Notice of Appeal	Thomas J Ryan
10/3/2008	Amended Notice Of Hearing of Defendant's Motion for Reduction of Sentence Pursuant to ICR 35	Thomas J Ryan
	Hearing result for Motion Hearing held on 10/27/2008 09:30 AM: Hearing Vacated Motn for Rule 35	Thomas J Ryan
	Hearing Scheduled (Motion Hearing 10/28/2008 09:30 AM) Mtn Pursuant to R35 ICR	Thomas J Ryan
10/7/2008	Order of Transport	Renae J. Hoff
10/24/2008	Objection to Rule 35 Motion and Request for Hearing	Thomas J Ryan
10/28/2008	Hearing result for Motion Hearing held on 10/28/2008 09:30 AM: District Court Hearing Held Court Reporter:Kim Saunders Number of Transcript Pages for this hearing estimated: less than 100 pages	Thomas J Ryan
	Hearing result for Motion Hearing held on 10/28/2008 09:30 AM: Motion Held Mtn Pursuant to R35 ICR	Thomas J Ryan
	Motion Denied	Thomas J Ryan
10/31/2008	Hearing result for Motion Hearing held on 10/31/2008 09:00 AM: Hearing Held motn to w/draw as att of recprd	Thomas J Ryan
	Hearing result for Motion Hearing held on 10/31/2008 09:00 AM: Motion Granted motn to w/draw as att of record	Thomas J Ryan

000007

Date: 11/25/2008

Time: 08:02 AM

Page 8 of 8

Third Judicial District Court - Canyon County



ROA Report



User: HEIDEMAN

Case: CR-2007-0005446-C Current Judge: Thomas J Ryan

Defendant: Manzanares, Simona Liza

State of Idaho vs. Simona Liza Manzanares

Felony

Date		Judge
10/31/2008	Hearing result for Motion Hearing held on 10/31/2008 09:00 AM: District Court Hearing Held Court Reporter: Kim Saunders Number of Transcript Pages for this hearing estimated: less than 100	Thomas J Ryan
11/6/2008	Case Status Changed (batch process)	
11/10/2008	Order Allowing Withdrawal/Richard L Harris	Thomas J Ryan
	Order Appointing Appellate Public Defender in Direct Appeal	Thomas J Ryan
11/24/2008	Amended Notice of Appeal	Thomas J Ryan

000008

THIRD JUDICIAL DISTRICT, STATE OF IDAHO  
COUNTY OF CANYON  
PROBABLE CAUSE

THE STATE OF IDAHO, Plaintiff,  
-vs-

Simona Lisa Mangano

aka \_\_\_\_\_  
Defendant.

Case No. CR-01-05446 \*C

Date February 27, 2007

Judge Jainy

Tape 1185 452-458

Time 4:52 pm

**APPEARANCES:**

☒ Prosecuting Attorney Brian Daylar  
☒ Witness Jay Headley Sworn: ☒ Yes ☐ No  
☒ Initiating Agency CPD

**PROCEEDINGS:**

Cause Found: ☒ Yes ☐ No ☐ For Setting of Bail ☐ Previously Found Electronically  
Complaint Signed: ☒ Yes ☐ No  
Warrant Issued: ☒ Yes ☐ No Summons Issued: ☐ Yes ☐ No

**BAIL:**

Bond Recommended: \$ 250,000.00 Bond Set: \$ 250,000.00  
In Custody: ☐ Yes ☐ No  
Comments: \_\_\_\_\_

**CHARGES:**

1. [F] [M] Recruiting Criminal Gang Members
2. [F] [M] Supplying Firearms to Criminal Gang
3. [F] [M] \_\_\_\_\_
4. [F] [M] \_\_\_\_\_
5. [F] [M] \_\_\_\_\_
6. [F] [M] \_\_\_\_\_

(Signature), Deputy Clerk

PROBABLE CAUSE

5/97

000009

**Caldwell Police Department**  
P.C. Affidavit / Case Synopsis

Caldwell Police CR#: 07-02816

Date Rec'd by Prosecutor: \_\_\_\_\_ By: \_\_\_\_\_ Pros. Case#: \_\_\_\_\_

Date of Offense: 9/21/05-2/14/07

Case Officer: Hoadley

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON.**

THE STATE OF IDAHO

Plaintiff

vs.

Manzanares, Simona Lisa  
Defendant

                                           
Date of Birth  
                                           
License Number ID  
State

**PROBABLE CAUSE AFFIDAVIT  
AND FINDING OF COURT**

*CR07-05446*

State of Idaho, County of Canyon SS:

Joey Hoadley The undersigned, being first duly sworn on oath, deposes and says:

1. I am a Peace Officer employed by the CALDWELL POLICE DEPARTMENT.
2. ☐ The Defendant was arrested on ..... **OR** ☒ A warrant is requested for the Defendant.....

For the crime (s) of: Recruiting Criminal Gang Members I.C. 18-8504 (F)  
Supplying Firearms to a Criminal Gang I.C. 18-8505 (F)/Dispensing Alcohol to Persons under 21

3. The crime(s) occurred in the County of Canyon, State of Idaho.

4. Identified the Defendant as: Manzanares, Simona Lisa

By (Check All That Apply): ☐ Military ID ☐ State ID Card ☒ Drivers License ☐ Student ID  
☒ Verbal ID by Defendant ☐ Resident alien card ☐ Credit Cards

☒ Witness: SCU Ofc. Hemmert/ATF Special Agent Gantt/CPD Det. Sloan/SCU Cpl. Hoadley

**ORIGINAL**

**000010**

☒ Other: Jackie T. / Ruben Flores

**Caldwell Police Department**

**P.C. Affidavit / Case Synopsis**

5. The crime(s) was committed in my presence: ☐ Yes ☒ No

6. I believe that there is probable cause that the Defendant committed such crime(s) because of the following facts; (NOTE: You must state the source of all information provided below. State what you observed and what you learned from someone else, identifying that person.)

☒ See attached narrative which is made part of this P.C. Affidavit.

See attached narrative.

Citations issued on Misdemeanor(s): ☐ Yes ☒ No ☐ N/A

In custody: ☐ Yes ☒ No ☒ Adult ☐ Juvenile

				Quantity
A	Witness Identification of Suspect	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	5
B	Written Witness Statement(s)	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	0
C	Taped Oral Witness Statement(s)	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	0
D	Photos	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	62
E	Audio Tape	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	1
F	Video Tape	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	0
G	Technical / Forensic / Lab Reports	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	0

7. If the offense is DUI or DWP, are there prior convictions: ☐ Yes ☐ No ☒ N/A

8. Property: ☐ Damaged ☐ Stolen ☐ Recovered ☐ List Attached

9. Weapons used: ☒ Yes ☐ No ☒ Seized

Type: SKS Rifle How many: 1

**000011**



## CALDWELL POLICE DEPARTMENT

---

During the course of an ongoing investigation into the criminal street gang "East Side Locos/Locas" of Caldwell, Canyon County, Idaho, several documented members have spoke with Police pointing to Simona Manzanares DOB [REDACTED] a.k.a. "Mona" a.k.a. "Payasa" as the gang's leader.

Due to numerous field interviews with documented East Side Locos/Locas gang members and the gang's violent tendencies, the Caldwell Police Department's Street Crimes Unit began a thorough investigation of not only the gang's members, but as to it's leadership.

The following gang related contacts with Manzanares include:

On September 21, 2005 at appx. 1812 hours, I made contact with Simona Manzanares DOB [REDACTED] in front of 2006 College in Caldwell. Manzanares was with two other documented East Side Locos gang members, Ismael Rivera a.k.a. "Lil' Smiley" and Armando Garcia a.k.a. "Peligroso". Rivera, Garcia and Garcia's girlfriend Laytoya Ramos were all arrested on outstanding arrest warrants. On this date, Manzanares admitted to me that she is the leader of the East Side Locas gang. The East Side Locas are the female members of the East Side Locos. (see 05-18299)

On September 23, 2005, I contacted Manzanares at 5<sup>th</sup>/Everett in Caldwell. She again admitted to being an East Side Locas gang member and was wearing a blue denim jacket with a blue bandana hanging from the front of her pants and a blue hat with large letters across that front that said "ESL". She admitted her gang moniker is "Payasa".

On June 27, 2006 I was assigned an Aggravated Assault case where some juveniles were shot at while walking on the street. The victim's described the suspect vehicle as "Mona's car" a maroon Dodge Stratus. One of the victims advised of two males with a female driver in the vehicle that fired shots at them. During my investigation into this case, Manzanares denied any involvement in the drive by shooting. However, Officer Finley located .380 shells inside her vehicle, the maroon Dodge Stratus, at the time of her arrest on 6/03/06 for CCW. (see 06-10382) These shells were sent for testing against the shells found at the scene of the drive by but results were inconclusive. (see 06-12031) Manzanares said she was at a birthday party of another documented East Side Locos gang member, Cesar Chavez a.k.a. "Mr. C 13" at the time of the shooting. I spoke with Chavez's wife, Melissa Hubbard, and she advised Manzanares was at the birthday party, and arrived with another documented East Side Locas juvenile gang member, Adrianna Musquiz DOB [REDACTED] a.k.a. "Drana" a.k.a. "Droopy", but left the party with Musquiz at approximately midnight. The shooting took place at 0028 hours just three blocks from Musquiz's residence at 608 E. Denver in Caldwell. Manzanares was also driving the suspect vehicle at that time.

On September 23, 2006, Manzanares was the victim of an aggravated assault that occurred at the Maverick located at Marblefront/N. Illinois in Caldwell. Manzanares described a Cadillac with several females and a juvenile male who had pulled up next to her and threw "West Side" hand signs at her and then pointed a black handgun at

her. Manzanares fled from the area in her vehicle and the car chased her. Officer's eventually located a Cadillac matching the description at the 7-11 located at Linden/Georgia in Caldwell that was occupied by several documented West Side Loma gang members. Manzanares responded to that scene but said these subjects were not involved. (see 06-19352)

On January 31, 2006 at appx. 1435 hours, I made contact with Manzanares at her residence, 4905 Buffalo Grass in Caldwell. While speaking with Manzanares, I saw a city of Caldwell street sign inside her living room. The sign was a street sign from "Freeport St.". Freeport is a street within the origination area of the East Side Locos. Numerous gang monikers were written on the sign with "ESL". "Payasa" was also included in the writing.

On October 13, 2006 at appx. 2108 hours, while in the area of Manzanares' residence at 4905 Buffalo Grass in Caldwell, I observed documented East Side Locos gang member/leader Edward Alfaro a.k.a. "Trooper" coming out of Manzanares' house and getting into her white Lincoln Towncar in the driveway. Alfaro had a \$100,000.00 warrant for his arrest. Upon the arrest of Alfaro, I located several other subjects inside not only the Lincoln, but a second car in the driveway. Found inside the Towncar with Alfaro was Simona Manzanares, Rosa Villarreal, and documented East Side Locos gang member, Miguel Hernandez a.k.a. "Boxer". A sawed off shotgun was found in the back seat with Hernandez. The serial number had been scraped off. Hernandez was arrested on a warrant and also for attempting to disarm Officer Finley during the course of arrest. Located inside the second car was were three more East Side Locos gang members, Damian Delgado, Adrianna Musquiz and Max Zavala. Musquiz and Zavala are both juveniles. Zavala was arrested on a warrant and admitted to being at the party at Manzanares' house where alcohol was being served to minors. Zavala told Officer Hemmert that he knew Muzquiz and Hernandez had also been drinking alcohol at the party. Upon search of the Manzanares' Lincoln Towncar, I found the sawed off shotgun along with a photo album with numerous gang related photographs. (see 06-21006)

Copies were taken of the photographs and are included in the case file. These photos show Manzares flashing East Side Locas gang signs and posing with numerous other juveniles flashing gang sings and holding beer cans and bottles. Some of the juveniles seen in the photos holding alcohol are:

Adrianna Musquiz a.k.a "Droopy" DOB [REDACTED]  
Priscilla Gomez [REDACTED]  
Freddy Quezada a.k.a "Puppet" DOB [REDACTED]  
Noel Rodriguez a.k.a "Magic" DOB [REDACTED]  
Fabian Olmeda a.k.a. "Sad Boy" DOB [REDACTED]  
Jimmy Granados a.k.a "Teddy" DOB [REDACTED]  
Jackie Trinidad DOB [REDACTED]  
David Burns a.k.a. "Crook" DOB [REDACTED]  
Elizabeth Esparza a.k.a "Whisper" DOB [REDACTED]

Many of the photos were taken at Manzanares' residence at 4905 Buffalo Grass in Caldwell. Photos of her can even be seen hanging on the wall in the background.

Also found in the photo album are photographs of the "jump in" of Jackie Trinidad. Manzanares is seen in one of the photos standing behind Trinidad flashing the "East Side" hand sign, with Trinidad flashing it as well. Another photograph taken in Manzanares' garage shows Trinidad holding up an SKS rifle with Manzanares standing behind her flashing the East Side hand sign. Another photo shows convicted felon Edward Alfaro a.k.a. "Trooper" holding this same SKS rifle, which was later recovered and found to be stolen.

On October 15, 2006 at appx. 1933 hours, I conducted a traffic stop on a vehicle which Manzanares was driving. Located in the passenger's seat was another documented juvenile East Side Locas juvenile gang member Adrianna Musquiz DOB [REDACTED] a.k.a. "Droopy" a.k.a. "Drana". Manzanares' vehicle had just been called into dispatch as a suspect vehicle. The white 1993 Lincoln Towncar was seen slowly driving by the residence of a rival gang member who was soon to testify against Manzanares' boyfriend Edward Alfaro a.k.a. "Trooper" in a drive by shooting case.

The following gang intelligence received is from interviews with Caldwell gang members including Manzanares herself:

On December 5, 2006, Manzanares came to CPD willingly to speak with me about the history of the East Side Locos. Manzanares told me that the East Side Locos allow females into the gang but the females call themselves the "East Side Locas" and is now also calling themselves "Barrio Queens". Manzanares told me that she is the leader of the East Side Locas. She said she was jumped into the East Side in 1993 by three male members. After several years of membership, she and several other female members of the gang decided that the male members were getting all of the attention, so sometime between 1996-1997, Manzanares decided to start the female version of the East Side Locos, calling themselves the East Side Locas. She advised the Locas started with appx. 20 female members. She told me she became the leader of the gang by just remaining in the area. Many of the other female members began leaving the gang over the years for several different reasons. Some would move away, and others would get pregnant or incarcerated. Manzanares said she remained faithful to the gang over the past 14 years and eventually became the leader of the East Side Locas. She said that the Locas membership has now dwindled down to less than ten. She provided the names of the current East Side Locas which included: Jessica Manzanares, Jessica Meraz a.k.a. "Brownie", Kimberly Rathke a.k.a. "Soncha", Adrianna Musquiz a.k.a. "Droopy", Priscilla Gomez and Natasha Cabrera. All but Jessica Manzanares are juveniles. Members of the gang are assigned a moniker once they are "jumped in" to the gang. A "jump in" included being battered by several other members of the gang for a specified amount of time. On this date, I asked Manzanares how the gang funds their activities since rarely do any members hold down jobs. She told me the gang uses thefts, the sale of illegal narcotics and burglaries to make money. The gang members call stealing a vehicle "car shopping" and burglarizing a home "house shopping".

On September 15, 2006, SCU Officer Hemmert #115 interviewed former East Side Locos gang member Ruben Alfredo Flores DOB [REDACTED] at CPD. Flores was a

documented East Side Locos gang member and his moniker was "Shy Boy". He is now a documented West Side Loma gang member. Flores provided the names of numerous East Side gang members, including East Side Locas or "Barrio Queens". During his interview, he identified Simona Manzanares as the gang's leader. (see 06-18820)

On December 14, 2006, ATF Special Agent Gantt and CPD Det. Sloan interviewed Jackie Trinidad at her residence located at 1709 Blaine in Caldwell. During the interview, Trinidad said she had to drop out of high school because of the gang. She also admitted to being a member of the East Side Locas or "Barrio Queens". Trinidad said she met Simona Manzanares through mutual friends and began to party with her in December of 2005. She said the parties consisted of drinking beer purchased by Simona Manzanares. Trinidad said she and another female "Maria" were "jumped in" to the East Side Locas on December 31, 2005 at a party at 306 Blaine in Caldwell. Trinidad said Simona Manzanares directed the "jump in" or initiation to the gang and ordered "Toya" (LNU), Sofia Sanchez and Maria Luna to conduct the "jump in". Soon after Simona, Liz Esparza a.k.a "Whisper", Adrianna Musquiz a.k.a. "Droopy" and Esmeralda Sanchez a.k.a. "Peaches" joined in. Trinidad advised Manzanares was directly involved in the gang initiation.

Trinidad said the photo of her taken with the SKS rifle was taken in Simona's garage around Cinco de Mayo 2006. She said Edward Alfaro took the photograph of her posing with the rifle and Manzanares. During Trinidad's interview with SA Gantt, she related Manzanares directed her to hold the rifle. She said she had to hold the rifle with two hands because it was too heavy.

When asked if Manzanarez directs the East Side gang members to commit crimes, Trinidad said Manzanarez encourages the female Locas gang members to actively participate in the gang by "tagging" buildings and crossing out rival gang graffiti and retagging it with "ESL". (See ATF Inv. #787015-06-0164)

On February 9, 2007 at appx. 1600 hours, SCU Officer Hemmert was requested by former East Side Locos gang member, Ruben Flores, to speak with him at Canyon County Jail where he was incarcerated. During the interview, Flores identified Simona Manzanares as a leader of the East Side. He said he had witnessed Manzanares "jump in" Elizabeth Esparza, Kim Rathke and Jessica Sanchez. All three of which are juveniles. Flores also said Manzanares "planned and ordered" the robbery of the Tesoro gas station on 3/12/06. (see 06-04447) Flores stated Manzanares drove the get away vehicle from the store. During an earlier interview, Flores told Officer Hemmert that Manzanares had placed bags over the license plates of the car prior to doing the robbery.

On February 15, 2007, SCU Officer Hemmert printed off a copy of Manzanares' "MySpace.com" webpage. The first page shows a picture of a red rag burning showing disrespect to Norteno gangs. In her occupation field it states "East Side Loca". Her page also shows photographs of numerous other East Side Loco gang members flashing gang signs. An audio recording plays over the site from Manzanares identifying herself as "Payasa", and telling all the "Surenos" to "keep bangin". A copy of this audio was recorded by Officer Hemmert and downloaded to the I drive at CPD. A copy of her webpage is also included in the case file.

**Due to Manzanares' involvement in the recruitment of criminal gang members, as well as supplying a firearm to a criminal gang member (Jackie Trinidad) appx. 5/05/06, I am requesting an arrest warrant for Simona Manzanares for Recruiting Criminal Gang Members (F), Supplying Firearms to a Criminal Gang (F) and Dispensing Alcohol to Persons under 21 years of age (M).**

**Caldwell Police Department**

**P.C. Affidavit / Case Synopsis**

10. Statement by Defendant: ☐ Written ☐ Oral ☐ Taped

Substance of statement:

Manzanares has admitted to Officers on several occasions to being the active leader of the Caldwell criminal street gang, "East Side Locas" or "Barrio Queens".

☐ Unable to locate Defendant.

☐ Defendant refuses to be interviewed.

☐ Defendant may give statement if permitted legal counsel.

☒ Warrant Requested

☐ Summons Requested

☐ In Custody

11. The following supporting documents are included with the full police report:

☒ Criminal History

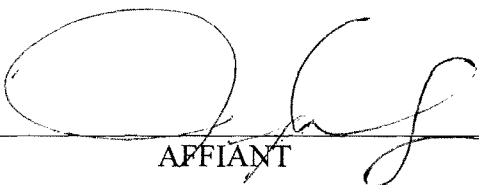
☒ Driving History

☐ Crime Scene Diagram

☐ Evidence / Chain of Custody


12. Prosecutor contacted: ☐ Yes ☒ No Who:

13. Supervisor's approval: \_\_\_\_\_

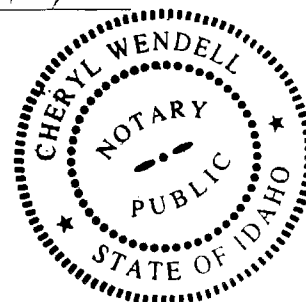
  
\_\_\_\_\_  
AFFIANT

2/21/07  
DATE

Subscribed and Sworn to before me on: 2/21/07

  
\_\_\_\_\_  
Notary Public for Idaho

Residing at: 11055th Caldwell



**000017**

My commissi[redacted]ires: 10/31/08

000018

tlb

DAVID L. YOUNG  
CANYON COUNTY PROSECUTING ATTORNEY  
Canyon County Courthouse  
1115 Albany Street  
Caldwell, Idaho 83605  
Telephone: (208) 454-7391

FILED  
A.M. P.M.

FEB 27 2007

CANYON COUNTY CLERK  
T HILL, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON  
MAGISTRATE DIVISION

THE STATE OF IDAHO

Plaintiff,

vs.

SIMONA LISA MANZANARES,  
DOB [REDACTED]

Defendant.

) CASE NO. CR2007- 5446  
)  
) **CRIMINAL COMPLAINT**  
) for the crimes of:  
)  
)  
) **COUNT I - RECRUITING CRIMINAL**  
) **GANG MEMBERS**  
) Fel., I.C. 18-8504(a)  
) **COUNT II - SUPPLYING FIREARMS**  
) **TO A CRIMINAL GANG**  
) Fel., I.C. 18-8505

STATE OF IDAHO )  
ss  
County of Canyon )

PERSONALLY APPEARED Before me this 27 day of February, 2007,

Bryan Taylor, of the Canyon County Prosecuting Attorney's Office, who

being duly sworn, complains and says:

COMPLAINT

1

J:\COMPLAIN\2007\FEB\Manzanares 27c.wpd

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COUNT I

That the Defendant, SIMONA LISA MANZANARES, on or about the <sup>April 1st</sup> ~~21<sup>st</sup>~~ day of ~~September~~, 2006, to the <sup>27<sup>th</sup></sup> ~~2<sup>nd</sup>~~ day of February, 2007, in the County of Canyon, State of Idaho, did knowingly solicit, invite, encourage or otherwise cause a person to actively participate in a criminal gang, The East Side Locas.

All of which is contrary to **Idaho Code**, Section 18-8504(a) and against the power, peace and dignity of the State of Idaho.

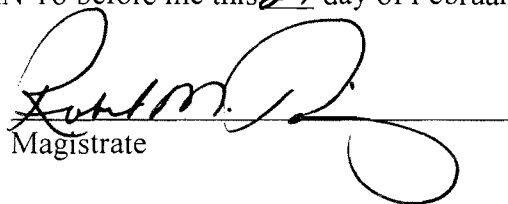
COUNT II

That the Defendant, SIMONA LISA MANZANARES, on or about the <sup>May 1 - May 15, 2006</sup> ~~13<sup>th</sup>~~ day of ~~October, 2006~~, in the County of Canyon, State of Idaho, did knowingly supply, sell, or give possession or control of a firearm to Jackie Trinidad who the defendant knew to be a criminal gang member.

All of which is contrary to **Idaho Code**, Section 18-8505 and against the power, peace and dignity of the State of Idaho.

  
Complainant

SUBSCRIBED AND SWORN To before me this <sup>27</sup> day of February, 2007.

  
Magistrate

MAR 01 2007

CANYON COUNTY CLERK  
T HILL, DEPUTY

llb

DAVID L. YOUNG  
CANYON COUNTY PROSECUTING ATTORNEY  
Canyon County Courthouse  
1115 Albany Street  
Caldwell, Idaho 83605  
Telephone: (208) 454-7391

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON  
MAGISTRATE DIVISION

THE STATE OF IDAHO	)	CASE NO. CR2007- <u>5446</u>
	)	
Plaintiff,	)	
	)	<b>WARRANT OF ARREST</b>
vs.	)	
	)	
SIMONA LISA MANZANARES,	)	
	)	
Defendant.	)	
	)	

TO ANY SHERIFF, CONSTABLE, MARSHAL, POLICEMAN OR PEACE OFFICER  
IN THE STATE OF IDAHO OR COUNTY OF CANYON

A Complaint, under oath having been laid before me, the undersigned Magistrate, by

Bryan Taylor of the Canyon County Prosecuting Attorney's Office,  
showing by substantial evidence that there is probable cause to believe that the crimes of  
**RECRUITING CRIMINAL GANG MEMBERS**, a felony; in violation of **Idaho Code**,  
Section 18-8504(a), and **SUPPLYING FIREARMS TO A CRIMINAL GANG**, a felony; in  
violation of **Idaho Code**, Section 18-8505 have been committed in the County of Canyon, State

ARREST WARRANT

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*Served By CPD* **DOCKETED**

of Idaho, and that SIMONA LISA MANZANARES has committed the said crime;

YOU ARE THEREFORE COMMANDED forthwith to arrest the above named  
DEFENDANT and bring said person before the nearest available Magistrate. This Warrant may  
be served at any time during the hours of the daytime or nighttime.

After the court having considered the facts pertaining to the said person and crime, the  
bail is fixed by endorsement in the amount of \$ 250,000

### NO CONTACT ORDER

[ ] **If checked, Defendant is not to be released on bond until the following No Contact  
Order is served on, or signed by, the Defendant:**

As a condition of Bond, YOU, THE DEFENDANT IN THE ABOVE CAPTIONED  
CASE, ARE HEREBY ORDERED TO HAVE NO CONTACT DIRECTLY OR INDIRECTLY  
WITH THE ALLEGED VICTIM(S):

\_\_\_\_\_  
\_\_\_\_\_  
You shall not harass, follow, contact, attempt to contact, communicate with in any form,  
or knowingly remain within 300 feet of the alleged victim(s) or his/her property, residence, work  
or school.

THIS ORDER WILL EXPIRE AT 11:59 P.M. ON THE \_\_\_\_ DAY OF \_\_\_\_\_,  
20\_\_\_\_, OR UPON DISMISSAL OF THE CASE.

VIOLATION OF THIS ORDER MAY BE PROSECUTED AS A SEPARATE CRIME  
UNDER Idaho Code section 18-920 for which no bail will be set until you appear before a judge  
and is subject to a penalty of up to one (1) year in jail or up to a one thousand dollar (\$1,000)  
fine, or both.

THIS ORDER CAN BE MODIFIED ONLY BY A JUDGE AND WHEN MORE THAN  
ONE DOMESTIC VIOLENCE PROTECTION ORDER (Title 39, Chapter 62 of Idaho Code) IS  
IN PLACE THE MOST RESTRICTIVE PROVISION WILL CONTROL ANY CONFLICTING  
TERMS OF ANY OTHER CIVIL OR CRIMINAL PROTECTION ORDER.

ARREST WARRANT

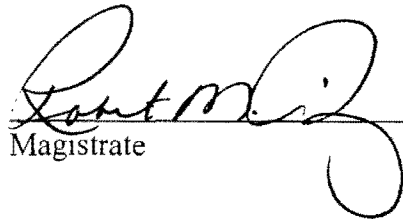
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The clerk shall immediately give written notification to the records department of the Canyon County Sheriff's Office of the issuance of this order. THE INFORMATION ON THIS ORDER SHALL BE ENTERED INTO THE IDAHO LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM. This order is entered pursuant to Idaho Code section 18-920, and Idaho Criminal Rule 46.2 (for felonies) or Idaho Misdemeanor Criminal Rule 13 (for misdemeanors).

Dated this 27 day of February, 2007.

  
Magistrate

**DEFENDANT INFORMATION**

Race: WAF	Hair: BRN	Eyes: BRN
Height: 5'3	Weight: 220	DOB: [REDACTED]
SS#: [REDACTED]	[REDACTED]	Agency: CPD
Officer HOADLEY	Badge No.	

Last Known Address: 2011 WILLOW #2, CALDWELL, IDAHO 83607

NCIC ENTRY: (Additional Levels Inclusive)

- ☐ Local  
☐ Statewide  
☐ Surrounding States  
☐ Western United States  
☐ Nationwide

By: \_\_\_\_\_

Dated: \_\_\_\_\_

ARREST WARRANT

J:\COMPLAIN\2007\FEB\Manzanares 27w.wpd

RETURN:

STATE OF IDAHO     )  
                                  ss.  
County of Canyon     )

I HEREBY CERTIFY that I received the within Warrant of Arrest on the \_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_, and served the said Warrant by arresting the within named  
Defendant \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and that  
I served a copy of said Warrant of Arrest, together with the no contact order (if any) contained  
within said Warrant of Arrest on the Defendant on the \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

\_\_\_\_\_  
Law Enforcement Officer

**IMPORTANT!**

**INSTRUCTIONS FOR ARRESTING OFFICER**

1. READ THIS WARRANT TO THE DEFENDANT.
2. GIVE THE DEFENDANT A COMPLETE COPY OF THIS WARRANT.
3. COMPLETELY FILL OUT AND SIGN THE RETURN
4. IMMEDIATELY FAX THE RETURN TO THE ENTERING AGENCY:

CANYON COUNTY SHERIFF'S OFFICE DISPATCH FAX # (208) 454-9355  
NAMPA CITY POLICE DEPARTMENT DISPATCH FAX # (208) 465-2213

ARREST WARRANT

J:\COMPLAIN\2007\FEB\Manzanares 27w.wpd

tlb

DAVID L. YOUNG  
CANYON COUNTY PROSECUTING ATTORNEY  
Canyon County Courthouse  
1115 Albany Street  
Caldwell, Idaho 83605  
Telephone: (208) 454-7391

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON  
MAGISTRATE DIVISION

THE STATE OF IDAHO	)	CASE NO. CR2007- <u>5446</u>
	)	
Plaintiff,	)	
	)	<b>WARRANT OF ARREST</b>
vs.	)	
	)	
SIMONA LISA MANZANARES,	)	
	)	
Defendant.	)	
_____		

TO ANY SHERIFF, CONSTABLE, MARSHAL, POLICEMAN OR PEACE OFFICER  
IN THE STATE OF IDAHO OR COUNTY OF CANYON

A Complaint, under oath having been laid before me, the undersigned Magistrate, by

Bryan Taylor of the Canyon County Prosecuting Attorney's Office,

showing by substantial evidence that there is probable cause to believe that the crimes of

**RECRUITING CRIMINAL GANG MEMBERS**, a felony; in violation of **Idaho Code**,

Section 18-8504(a), and **SUPPLYING FIREARMS TO A CRIMINAL GANG**, a felony; in

violation of **Idaho Code**, Section 18-8505 have been committed in the County of Canyon, State

ARREST WARRANT

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COPY

of Idaho, and that SIMONA LISA MANZANARES has committed the said crime;

YOU ARE THEREFORE COMMANDED forthwith to arrest the above named  
DEFENDANT and bring said person before the nearest available Magistrate. This Warrant may  
be served at any time during the hours of the daytime or nighttime.

After the court having considered the facts pertaining to the said person and crime, the  
bail is fixed by endorsement in the amount of \$ 750,000.00

### NO CONTACT ORDER

☐ If checked, Defendant is not to be released on bond until the following No Contact  
Order is served on, or signed by, the Defendant:

As a condition of Bond, YOU, THE DEFENDANT IN THE ABOVE CAPTIONED  
CASE, ARE HEREBY ORDERED TO HAVE NO CONTACT DIRECTLY OR INDIRECTLY  
WITH THE ALLEGED VICTIM(S):

\_\_\_\_\_  
\_\_\_\_\_  
You shall not harass, follow, contact, attempt to contact, communicate with in any form,  
or knowingly remain within 300 feet of the alleged victim(s) or his/her property, residence, work  
or school.

THIS ORDER WILL EXPIRE AT 11:59 P.M. ON THE \_\_\_\_ DAY OF \_\_\_\_\_,  
20\_\_\_\_, OR UPON DISMISSAL OF THE CASE.

VIOLATION OF THIS ORDER MAY BE PROSECUTED AS A SEPARATE CRIME  
UNDER Idaho Code section 18-920 for which no bail will be set until you appear before a judge  
and is subject to a penalty of up to one (1) year in jail or up to a one thousand dollar (\$1,000)  
fine, or both.

THIS ORDER CAN BE MODIFIED ONLY BY A JUDGE AND WHEN MORE THAN  
ONE DOMESTIC VIOLENCE PROTECTION ORDER (Title 39, Chapter 62 of Idaho Code) IS  
IN PLACE THE MOST RESTRICTIVE PROVISION WILL CONTROL ANY CONFLICTING  
TERMS OF ANY OTHER CIVIL OR CRIMINAL PROTECTION ORDER.

ARREST WARRANT

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The clerk shall immediately give written notification to the records department of the Canyon County Sheriff's Office of the issuance of this order. THE INFORMATION ON THIS ORDER SHALL BE ENTERED INTO THE IDAHO LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM. This order is entered pursuant to Idaho Code section 18-920, and Idaho Criminal Rule 46.2 (for felonies) or Idaho Misdemeanor Criminal Rule 13 (for misdemeanors).

Dated this 21 day of February, 2007.

CLERK  
FEB 21 2007

\_\_\_\_\_  
Magistrate

**DEFENDANT INFORMATION**

Race: WAF	Hair: BRN	Eyes: BRN
Height: 5'3	Weight: 220	DOB: [REDACTED]
SS#: [REDACTED]	[REDACTED]	Agency: CPD
Officer HOADLEY	Badge No.	

Last Known Address: 2005 WILLOW #2, CALDWELL, IDAHO 83607

NCIC ENTRY: (Additional Levels Inclusive)

- ☐ Local  
☐ Statewide  
☐ Surrounding States  
☐ Western United States  
☐ Nationwide

By: \_\_\_\_\_

Dated: \_\_\_\_\_

ARREST WARRANT

J COMPLAINT 2007 FBI-B Manzanares 27w.wpd



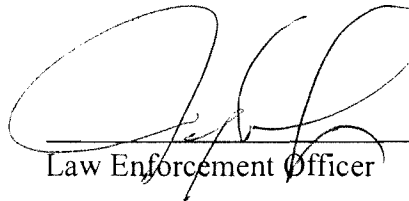
RETURN:

STATE OF IDAHO )

ss.

County of Canyon )

I HEREBY CERTIFY that I received the within Warrant of Arrest on the 27<sup>th</sup> day of February, 20 07, and served the said Warrant by arresting the within named Defendant SEMONA MANZANARES on the 28<sup>th</sup> day of February, 20 07, and that I served a copy of said Warrant of Arrest, together with the no contact order (if any) contained within said Warrant of Arrest on the Defendant on the 28<sup>th</sup> day of February, 20 07.

  
\_\_\_\_\_  
Law Enforcement Officer

**IMPORTANT!**

**INSTRUCTIONS FOR ARRESTING OFFICER**

1. READ THIS WARRANT TO THE DEFENDANT.
2. GIVE THE DEFENDANT A COMPLETE COPY OF THIS WARRANT.
3. COMPLETELY FILL OUT AND SIGN THE RETURN
4. IMMEDIATELY FAX THE RETURN TO THE ENTERING AGENCY:

CANYON COUNTY SHERIFF'S OFFICE DISPATCH FAX # (208) 454-9355  
NAMPA CITY POLICE DEPARTMENT DISPATCH FAX # (208) 465-2213

ARREST WARRANT

J:COMPLAIN-2007-FEB Manzanares 27w wpd

THIRD JUDICIAL DISTRICT, STATE OF IDAHO  
COUNTY OF CANYON

☒ ARRAIGNMENT    ☐ CONT'D ARRAIGNMENT    ☐ FIRST APPEARANCE

THE STATE OF IDAHO, Plaintiff,  
-vs-  
Simona Liza Manzanares Defendant.  
☐ True Name  
Corrected Name: \_\_\_\_\_

Case No. CR- 07-54460  
Date 3-1-07  
Judge Schiller  
Tape mag 7 (144-146)

**APPEARANCES:**

☒ Defendant    ☒ Prosecutor Kary Sisson  
☐ Defendant's Attorney \_\_\_\_\_ ☐ Interpreter \_\_\_\_\_

☐ **FAILURE TO APPEAR:** Defendant failed to appear. It is Ordered  
☐ bench warrant issued.    ☐ bail on warrant \$ \_\_\_\_\_    ☐ bail forfeited.    ☐ referred to P.A.

**ADVISEMENT OF RIGHTS:** Defendant

☒ was informed of the charges against him/her and all legal rights, including the right to be represented by counsel.  
☐ requested court appointed counsel.    ☐ waived right to counsel.  
☐ Indigency hearing held.    ☐ Court denied court-appointed counsel.  
☐ Court appointed public defender.    ☐ Arraignment continued to \_\_\_\_\_ before Judge \_\_\_\_\_  
☐ Arraignment continued to \_\_\_\_\_ before Judge \_\_\_\_\_  
☐ to consult / retain counsel.    ☐ \_\_\_\_\_

☒ **PRELIMINARY HEARING:** Statutory time waived: ☐ Yes.    ☒ No.    ☐ Preliminary Hearing waived.  
Preliminary Hearing set 3-14-07 @ 10:00 AM before Judge Dillon

☐ **ENTRY OF GUILTY PLEA:** Defendant

☐ was advised of effect of guilty plea and possible consequences.  
☐ entered plea freely and voluntarily with knowledge of consequences.  
☐ Plea of guilty accepted by the court.  
☐ Defendant ordered to obtain ☐ alcohol/drug    ☐ aggression evaluation prior to sentencing date.  
☐ Sentencing continued to \_\_\_\_\_ before Judge: \_\_\_\_\_

☐ **ENTRY OF NOT GUILTY PLEA:** Case to be set for ☐ court trial.    ☐ pretrial and jury trial.

**BAIL:** State recommends \_\_\_\_\_

☐ Released on written citation promise to appear.    ☐ Released on bond previously posted.  
☐ Released on own recognizance (O.R.).    ☒ Remanded to the custody of the sheriff.  
☐ Released to pre-trial release officer.    ☒ Bail set at \$ 250,000

**OTHER:** Defendant stated that she will hire a private attorney

J. Pellard, Deputy Clerk

**RICHARD L. HARRIS**  
**Attorney at Law**  
**P.O. Box 1438**  
**1023 Arthur Street**  
**Caldwell, Idaho 83606**  
**(208) 459-1541**  
**ISB No. 1387**

Attorney for Defendant

FILED  
MAR 09 2007  
CANYON COUNTY CLERK  
DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF  
IDAHO, IN AND FOR THE COUNTY OF CANYON

THE STATE OF IDAHO,	)	CASE NO. CR-2007-5446C
	)	
Plaintiff,	)	
	)	
-vs-	)	MOTION FOR BOND REDUCTION
	)	OR RELEASE ON OWN RECOGNIZANCE
SIMONA MANZANARES ,	)	AND NOTICE OF HEARING
	)	
Defendant.	)	
_____	)	

COMES NOW, Richard L. Harris, attorney for the defendant, and hereby moves this Honorable Court for entry of its Order releasing the defendant on defendant's own recognizance or reducing bail.

THIS MOTION is made on the grounds that the offense with which defendant is charged is a bailable offense; that the bail now set is excessive; and that bail is unnecessary in that the defendant can be safely released on defendant's own recognizance.


THIS MOTION is based on this notice and on the pleadings, papers, records and files in the above-entitled action.

MOTION FOR BOND REDUCTION OR RELEASE  
ON OWN RECOGNIZANCE AND NOTICE - 1

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**NOTICE OF HEARING:** NOTICE IS HEREBY GIVEN that attorney for defendant will bring on for hearing the above Motion before the above-entitled Court on the 14th day of March, 2007, at the hour of 9:00 o'clock A.M., or as soon thereafter as counsel may be heard.

**CERTIFICATE OF SERVICE:** THE UNDERSIGNED HEREBY CERTIFIES that a true and correct copy of the within and foregoing MOTION FOR BAIL REDUCTION OR RELEASE ON OWN RECOGNIZANCE AND NOTICE was delivered to the office of DAVID YOUNG, CANYON COUNTY PROSECUTING ATTORNEY, at the Canyon County Courthouse, 1115 Albany, Caldwell, Idaho, on this 9<sup>th</sup> day of March, 2007.



---

RICHARD L. HARRIS  
Attorney for Defendant

THIRD JUDICIAL DISTRICT, STATE OF IDAHO  
COUNTY OF CANYON  
HEARING CONTINUED

Case No. CR07-05446C  
Date: 3/14/07  
Judge: Dillon  
Tape: Mag 6 (1004-1009)  
Hearing: Preliminary Hearing  
and Motion Hearing

State of Idaho )  
Plaintiff, )  
-vs- )  
Simona Liza Manzanarez )  
Defendant. )

**APPEARANCES:**

☒ The State of Idaho ☒ Deputy Prosecutor Bryan Taylor  
☐ City Prosecutor  
☐ Deputy Attorney General  
☐ Plaintiff ☐ Plaintiff's Attorney  
☒ Defendant ☒ Defendant's Attorney Richard Harris  
☐ Interpreter

**PROCEEDINGS:** This matter shall be

☐ set for a date certain  
☐ on the stipulation of counsel.  
☐ at the request of  
☒ continued to 3/21/07 @ 10:00 a.m. ☐ before Judge Krogh  
☐ on the stipulation of counsel.  
☒ at the request of defense counsel, just received discovery.  
☐ passed to the miscellaneous calendar.  
☐ No one appeared on behalf of either party.  
☐ No proof of service was filed.

**CUSTODY:**

☐ Released on written citation promise to appear. ☐ Released on bond previously posted.  
☐ Released on own recognizance (O.R.) ☒ Remanded to the custody of the sheriff.  
☐ Released to pre-trial release officer. ☒ Bail set at \$ 250,000.00

**OTHER:** The Court denied Mr. Harris' motion to reduce bond but stated that he may renew the motion @ the continued Preliminary. K. Beckley, Deputy Clerk Hearing.

The defendant waived statutory time for her preliminary hearing.

THIRD JUDICIAL DISTRICT, STATE OF IDAHO  
COUNTY OF CANYON  
PRELIMINARY HEARING

THE STATE OF IDAHO,

Plaintiff,

-vs-

Simona Liza Manzanarez  
Defendant.

Case No. CR-07-05446-C

Date 3/21/07

Judge Dillon

Tape Mag 6 (1012-1014)

**APPEARANCES:**

☒ Defendant

☒ Prosecutor

☒ Defendant's Attorney

☐ Interpreter

Bryan Taylor Richard Harris

**FAILURE TO APPEAR:** Defendant failed to appear. It is Ordered

☐ bench warrant issued—bail \$ \_\_\_\_\_ ☐ bond forfeited.

☐ Other: \_\_\_\_\_

**PROCEEDINGS:**

☒ Preliminary hearing waived; Defendant bound over to District Court.

☐ State moved to dismiss on the grounds \_\_\_\_\_

☐ Prospective witnesses excluded.

☐ Court dismissed Complaint.

**STATE'S WITNESSES SWORN:** 1. \_\_\_\_\_ 2. \_\_\_\_\_

3. \_\_\_\_\_ 4. \_\_\_\_\_ 5. \_\_\_\_\_

**DEFENDANT'S WITNESSES SWORN:** 1. \_\_\_\_\_ 2. \_\_\_\_\_

3. \_\_\_\_\_ 4. \_\_\_\_\_ 5. \_\_\_\_\_

☐ Defendant had no testimony or evidence to present.

**EXHIBITS:** ☐ As set forth on attached list.

**COURT'S RULING:**

☐ No probable cause; Complaint dismissed; Defendant discharged.

☐ Bond exonerated. ☐ Probable cause found for offense set forth in Complaint.

☐ Charges amended to: \_\_\_\_\_

☐ Probable cause found for amended charge.

☒ Defendant held to answer to the District Court. District Court arraignment set for

3/30/07 at 9:00 a.m. before Judge Petrie

☐ Misdemeanor case(s) continued consolidated with felony case for further proceedings.

☐ Motion for bond reduction continued until the time of District Court Arraignment.

**BAIL:** The Defendant was

☐ released on own recognizance (O.R.).

☐ released to pre-trial release officer.

☐ remanded to custody of the sheriff.

☐ released on bond previously posted.

☒ Bail set \$ 250,000.00 - cont.

**OTHER:** Mr. Harris stated offer for the record.

K. Beckley, Deputy Clerk

THIRD JUDICIAL DISTRICT  
STATE OF IDAHO  
COUNTY OF CANYON

FILED 3/21/07 AT 10:15 A.M.  
CLERK OF THE DISTRICT COURT  
BY K. Beckley, Deputy

STATE OF IDAHO,

Plaintiff,

-vs-

Simona Liza Manzanarez

Defendant.

Case No. CR - 07-05446 - \*C

ORDER BINDING DEFENDANT OVER  
TO DISTRICT COURT

Preliminary hearing having been ☒ waived ☐ held in this case on the 21st day of March, 20 07 and the Court being fully satisfied that a public offense has been committed and that there is probable or sufficient cause to believe the Defendant guilty thereof,

IT IS HEREBY ORDERED that the Defendant herein be held to answer in the District Court of the Third Judicial District of the State of Idaho, in and for the County of Canyon, to the charge of Recruiting Criminal Gang Members 18-8504(a) Supplying Firearms to a Criminal Gang 18-8505, a felony, committed in Canyon County, Idaho on or about the 21st day of September, 2006 to the 2nd day of February, 2007.

IT IS FURTHER ORDERED that the Defendant herein shall be arraigned before the District Court of the Third Judicial District of the State of Idaho, in and for the County of Canyon, on the 30th day of March, 2007 at 9:00 a.m.

☐ Defendant is continued released on the bond posted.

☐ Defendant's personal recognizance release is ☐ continued. ☐ ordered.

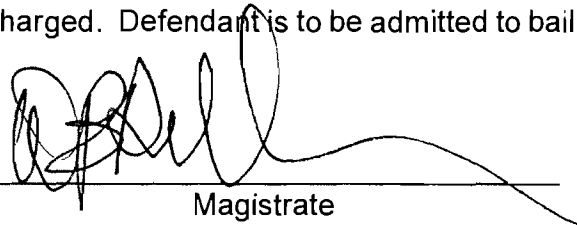
☐ Defendant's release to Pre-Trial Release Officer is ☐ continued. ☐ ordered.

☒ YOU, THE SHERIFF OF CANYON COUNTY, IDAHO, are commanded to receive into your custody and detain the Defendant until legally discharged. Defendant is to be admitted to bail in the sum of \$ 250,000.00 / cont.

Dated:

3-21-07

Signed:

  
Magistrate

☐ P.A.

☐ Defendant/Attorney

☐ Sheriff

☐ District Court Secretary

ORDER BINDING DEFENDANT OVER  
TO DISTRICT

000034

01/06

F I L E D  
A.M. 2:00 P.M.

MAR 21 2007

CANYON COUNTY CLERK

N. Hernandez  
DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO,

Plaintiff,

-vs-

SIMONA LIZA MANZANARES,

Defendant.

)  
)  
) ORDER ON DISTRICT COURT  
) ARRAIGNMENT  
)  
)

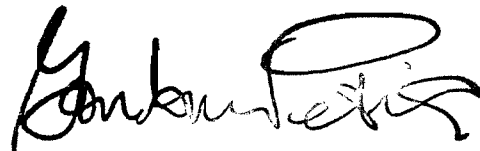
) Case No. CR07-5446  
)  
)  
)  
)  
)

**THIS IS A CRIMINAL MATTER.** On the 21<sup>st</sup> day of March, 2007, the above-entitled matter was continued until **March 30, 2007 at 9:00 a.m.**

**THEREFORE, THIS ORDER THAT:**

1. Should the defendant post bond or otherwise be released before said arraignment, the arraignment time shall be at **1:30 p.m.** on **March 30, 2007.**
2. If the defendant stays in jail or is in custody on any other matter, the arraignment shall remain at 9:00 a.m. on **March 30, 2007.**

Dated this 21 day of March, 2007.



Gordon W. Petrie  
District Judge

ORDER

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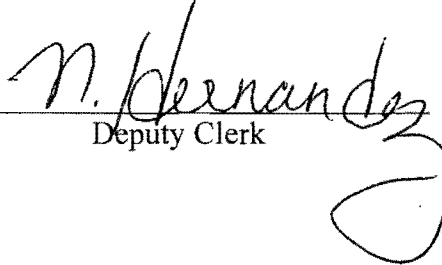
CERTIFICATION OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was forwarded to the following persons on the 21 day of March, 2007.

David Young  
Prosecutor  
Caldwell, Idaho 83605

Richard Harris  
Attorney at Law  
P.O. Box 1483  
Caldwell, Idaho 83606

Canyon County jail

  
Deputy Clerk

**RICHARD L. HARRIS**  
**Attorney at Law**  
**P.O. Box 1438**  
**1023 Arthur Street**  
**Caldwell, Idaho 83606**  
**(208) 459-1541**  
**ISB No. 1387**

Attorney for Defendant

**F I L E** 5:00  
A.M. P.M.

**MAR 21 2007**

CANYON COUNTY CLERK  
DEPUTY

*M. Hernandez*

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF  
IDAHO, IN AND FOR THE COUNTY OF CANYON

THE STATE OF IDAHO,	)	CASE NO. CR-2007-5446C
	)	
Plaintiff,	)	
	)	
-vs-	)	MOTION FOR BOND REDUCTION
	)	OR RELEASE ON OWN RECOGNIZANCE
SIMONA MANZANARES ,	)	AND NOTICE OF HEARING
	)	
Defendant.	)	
_____	)	

COMES NOW, Richard L. Harris, attorney for the defendant, and hereby moves this Honorable Court for entry of its Order releasing the defendant on defendant's own recognizance or reducing bail.

THIS MOTION is made on the grounds that the offense with which defendant is charged is a bailable offense; that the bail now set is excessive; and that bail is unnecessary in that the defendant can be safely released on defendant's own recognizance.

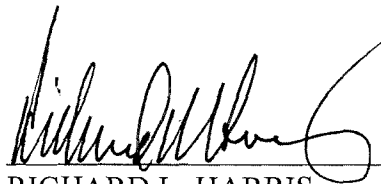
THIS MOTION is based on this notice and on the pleadings, papers, records and files in the above-entitled action.

MOTION FOR BOND REDUCTION OR RELEASE  
ON OWN RECOGNIZANCE AND NOTICE - 1

**000037**

**NOTICE OF HEARING:** NOTICE IS HEREBY GIVEN that attorney for defendant will bring on for hearing the above Motion before the above-entitled Court on the 30th day of March, 2007, at the hour of 9:30 o'clock A.M., or as soon thereafter as counsel may be heard.

**CERTIFICATE OF SERVICE:** THE UNDERSIGNED HEREBY CERTIFIES that a true and correct copy of the within and foregoing MOTION FOR BAIL REDUCTION OR RELEASE ON OWN RECOGNIZANCE AND NOTICE was delivered to the office of DAVID YOUNG, CANYON COUNTY PROSECUTING ATTORNEY, at the Canyon County Courthouse, 1115 Albany, Caldwell, Idaho, on this 29 day of March, 2007.



RICHARD L. HARRIS  
Attorney for Defendant

000039

SUPPLYING FIREARMS TO A CRIMINAL GANG

Felony

Idaho Code Section 18-8505

committed as follows:

**COUNT I**

That the Defendant, SIMONA LISA MANZANARES, on or about the 21<sup>st</sup> day of September, 2006, to the 2<sup>nd</sup> day of February, 2007, in the County of Canyon, State of Idaho, did knowingly solicit, invite, encourage or otherwise cause a person to actively participate in a criminal gang, The East Side Locas.

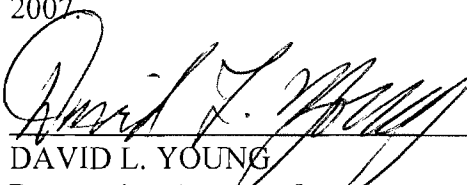
All of which is contrary to **Idaho Code**, Section 18-8504(a) and against the power, peace and dignity of the State of Idaho.

**COUNT II**

That the Defendant, SIMONA LISA MANZANARES, on or about the 13<sup>th</sup> day of October, 2006, in the County of Canyon, State of Idaho, did knowingly supply, sell, or give possession or control of a firearm to Jackie Trinidad who the defendant knew to be a criminal gang member.

All of which is contrary to **Idaho Code**, Section 18-8505 and against the power, peace and dignity of the State of Idaho.

DATED This 21 day of March, 2007.

  
\_\_\_\_\_  
DAVID L. YOUNG  
Prosecuting Attorney for  
Canyon County, Idaho

INFORMATION

J:\INFORMATION\2007\MARCH\manzanares.wpd

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON  
PRESIDING: **HONORABLE GORDON W. PETRIE**      DATE: **MARCH 30, 2007**

THE STATE OF IDAHO,	)	
	)	COURT MINUTE
Plaintiff	)	
	)	CASE NO. CR-2007-5446*C
-VS-	)	
	)	
	)	REPORTED BY Yvonne Hyde-Gier
	)	
SIMONA LIZA MANZANARES	)	
	)	DTRCT5 921-936
Defendant	)	

This having been the time heretofore set for **arraignment** in the above entitled matter, the defendant was present with her attorney Mr. Richard Harris. The State was represented by counsel, Mr. Aaron Bazzoli and Mr. Kenneth Stringfield, Deputy Prosecuting Attorneys for Canyon County.

The Court advised the defendant she had the right to remain silent throughout the proceeding, anything the defendant said here today could be used against her in the future. The Court questioned the defendant if she understood her rights.

The defendant advised the Court she understood her rights.

The Court advised the defendant of the **Information**, charging the defendant

DISTRICT COURT MINUTE  
MARCH 30, 2007

**000041**

with the offense of **Recruiting Criminal Gang Members, felony, I.C.S. 18-8504(a)**; with a maximum possible penalty upon a conviction of ten (10) years imprisonment and/or a \$50,000 fine. The defendant is charged with the offense of **Supplying Firearms to a Criminal Gang, a felony, I.C.S. 18-8505**; with a maximum possible penalty upon a conviction of ten (10) years imprisonment and/or a \$50,000 fine.

The Court advised the defendant if at any time any defendant was dissatisfied with any final judgment of any court in this state, the defendant was entitled to appeal the judgment to the Idaho Supreme Court, in which the defendant would have forty-two days within which to appeal. The Court noted that the defendant would have the right to representation of counsel.

The Court advised the defendant she had the right to read the Information in open court, or waive the reading of the Information.

The Court further advised the defendant of the right to one full day or longer, if necessary, before entering a plea, and the defendant waived that right.

Mr. Harris asked the Court to set this matter over for two weeks. Mr. Harris stated that an offer was made at the preliminary hearing, which would include waiving the preliminary hearing; the defendant pleading guilty to count one; count two would be dismissed and the State would limit their recommendations to a maximum of a rider. Mr. Harris stated that the defendant would enter a plea pursuant to a Rule 11 plea

agreement based upon Mr. Harris's belief that the recruitment statute was unconstitutionally vague. Mr. Harris stated that he was going to reserve the right to test that statute on appeal. Mr. Harris advised the Court the problem was going to work out a factual basis or stipulated set of facts to base that, however, has not been done. Mr. Harris stated that he anticipated at the preliminary hearing that that would not be done because the information coming through the state was coming through the internet, that being "myspace.com", in which counsel were still waiting for information through the computer service. In addition, defense was free to argue for less than a rider and could argue for probation. Mr. Harris advised the Court his notes reflected the bond was to be reduced to \$25,000, however, in reviewing the notes with prosecutor this morning that were put in the file by Mr. Taylor, the notes did not reflect the \$25,000 bond reduction. Mr. Harris advised the Court he was in agreement that as part of reducing the bond, it would be appropriate to add a condition that the defendant have no association with any gang member whatsoever and if she was found to have violated the condition, the bond would be revoked.

The Court continued this matter until April 13, 2007 at 9:00 a.m. in front of the Honorable Juneal C. Kerrick.

Mr. Harris asked the Court to consider reducing the bond to \$25,000.

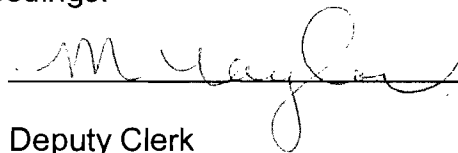
The State objected to the motion for bond reduction and expressed concerns



with regards to the defendant absconding.

The Court granted the motion for bond reduction and reduced the bond to \$75,000.00 with the condition that the defendant have no association with any known or suspected gang members directly or indirectly; the defendant have no access to the internet and the defendant report daily to pre trial release if bond was posted.

The defendant was remanded to the custody of the Sheriff of Canyon County pending posting of bond or further proceedings.

  
Deputy Clerk

THIRD JUDICIAL DISTRICT  
STATE OF IDAHO  
COUNTY OF CANYON

FILED 3-30-07 AT 9:35 M.  
CLERK OF THE DISTRICT COURT  
BY C. Maher, Deputy

THE STATE OF IDAHO, or

Plaintiff,

-vs-

Simona L. Manzanates

Defendant.

Case No. CR-07-5446

COMMITMENT ON BOND

IT IS HEREBY ORDERED that the above-named Defendant be committed to the custody of the Sheriff of Canyon County, Idaho:

☐ Bond having been set in the sum of \$ \_\_\_\_\_

☒ Bond having been ☐ increased ☒ reduced to the sum of \$ 75,000.00

☐ Defendant shall report to the Pre-Trial Release Office if bond is posted.

☐ Defendant shall have no contact with victim whether or not bond is posted.

☐ Defendant shall not operate or be in the front seat of any motor vehicle if bond is posted.

☒ Other: if Def. released - no contact w/ known

gang members directly or indirectly  
- def to report daily to Pretrial Ref - no access to internet

Dated: 3-30-07

Signed: [Signature]  
Judge

☐ Jail

☐ Dispatch

APR - 2 2007

CANYON COUNTY CLERK  
M TAYLOR, DEPUTYIN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYONSTATE OF IDAHO,  
Plaintiff,CASE NO. CR-200 7 5446-C

vs.

Simona L. Manzanaras  
Defendant.ORDER CONTINUING HEARING  
TO DATE CERTAINDC ARRN

THIS IS A CRIMINAL MATTER. The hearing in this matter scheduled for today is continued to the date and time set out below. The presence of all parties and witnesses required at the continue hearing is the responsibility of the attorneys.

## THEREFORE, THIS ORDERS THAT:

1. The hearing continued is re-set for the 13 day of April, 200 7, to begin at the hour of 2:00, A. M. w/ Kerrick

DATED this 30 day of March, 200 7  
GORDON W. PETRIE, District Judge

## CERTIFICATE OF SERVICE

Hand delivered to ☒ deputy prosecutor and ☒ attorney for defendant on the above-date, in court.

By: 

Deputy Clerk of the Court

ORDER CONTINUING HEARING TO DATE CERTAIN

000046

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON  
PRESIDING: JUNEAL C. KERRICK    DATE: APRIL 13, 2007

THE STATE OF IDAHO,	)	
	)	COURT MINUTE
Plaintiff	)	
	)	CASE NO. CR-2007-05446-C
-VS-	)	
	)	REPORTED: Andrea Klemenston
	)	
SIMONA LISA MANZANARES,	)	DCRT 2 (911 – 913)
	)	
Defendant	)	
	)	

This having been the time heretofore set for **arraignment** in the above-entitled matter, the State was represented by Ms. Rondee Blessing, Deputy Prosecuting Attorney. The defendant was present with counsel, Mr. Richard Harris.

The Court reviewed the previous proceeding and advised the defendant that she was previously informed of the charges, the possible penalties and inquired as to the status of the case.


Mr. Harris informed the Court that he and Mr. Bryan Taylor of the Prosecutor's Office were engaged in negotiations as to a resolution to this case, but have not reached it yet, the defendant entered a plea of **not guilty** and **demand**ed a speedy trial.

The Court set this matter for **Pre-trial conference on June 21, 2007 at 9:00 a.m. before Judge Culet and Jury Trial to commence on July 31 – August 1, 2007 at 9:00 a.m. before Judge Culet.**

The defendant was continued released on bond previously posted.

The Court instructed the defendant to keep in contact with his attorney.

-----

  
Deputy Clerk

APR 26 2007

THE STATE OF IDAHO,	)	Case No. CR07-5446C
	)	
	)	
Plaintiff,	)	
-vs-	)	AFFIDAVIT OF PRE-TRIAL
	)	RELEASE OFFICER
MANZANARES, SIMONA LISA	)	
	)	
Defendant.	)	
	)	

**Craig Landers, being duly sworn upon oath, deposes and says:**

1. That he/she is employed by the Canyon County District Court as a Pre-Trial Release Officer charged with supervising defendants on recognizance releases;
2. That the Defendant was granted a recognizance release with specified conditions To the pre-trial release program on MARCH 30, 2007.
3. That the Defendant has not complied with the conditions of his/her release in The following regards: Defendant has CONTINUED GANG ASSOCIATION BY RECRUITING OF GANG MEMBERS. SEE ATTACHED PC AFFIDAVIT.

*Louis Landry*  
Affiant—Pre-Trial Release Officer

On this 26 day of April, 2007.  
 \_\_\_\_\_  
 Judge

**Yellow—Pre-Trial Release Officer**

000049

FILED  
A.M. P.M.

APR 26 2007

CANYON COUNTY CLERK  
THILL, DEPUTY

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT**

**STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON**

<b>STATE OF IDAHO,</b>	)	
<b>Plaintiff,</b>	)	<b>CASE NO. CR 2007-5446-C</b>
	)	
<b>vs.</b>	)	<b>FINDINGS AND ORDER TO ISSUE</b>
	)	<b>ARREST WARRANT FOR</b>
<b>SIMONA LISA MANZANARES,</b>	)	<b>VIOLATING TERMS OF RELEASE</b>
<b>Defendant.</b>	)	<b>AND ORDER SETTING BAIL</b>

**THE COURT FINDS, BASED UPON ITS FILE AND AFFIDAVIT PRESENTED THAT:**

1. On 30 March 2007, the District Court released the above-named defendant to pre-trial release on certain terms, all of which defendant knows.
2. The Pretrial Release Officer, based upon the affidavit of Larry Hemmer of the Caldwell City Police, asks this court to revoke the defendant's release and that a new arrest warrant issue and bond be set.
3. Based upon the affidavit presented, this court finds and concludes that the defendant has violated the terms of her earlier release, based upon the following facts presented: defendant has associated with a known or suspected gang member.

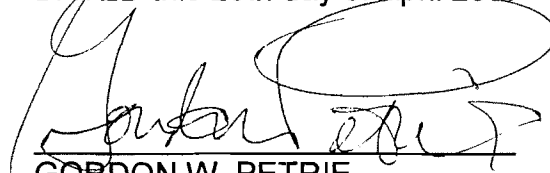
**THEREFORE, THIS ORDERS THAT:**

1. The court will issue a warrant for the defendant's arrest for violating known conditions of release.
2. The court sets bail at **\$500,000**; warrant may be served at **night**.

**FINDINGS AND ORDER TO ISSUE ARREST WARRANT FOR VIOLATING TERMS  
OF RELEASE AND ORDER SETTING BAIL- Page 1**

**000050**

DATED this 26th day of April 2007



GORDON W. PETRIE,  
District Judge

FINDINGS AND ORDER TO ISSUE ARREST WARRANT FOR VIOLATING TERMS  
OF RELEASE AND ORDER SETTING BAIL- Page 2

000051



THIRD JUDICIAL DISTRICT  
STATE OF IDAHO  
COUNTY OF CANYON

FILED 3-30-07 AT 9:35A M.  
CLERK OF THE DISTRICT COURT  
BY C. M. Her, Deputy

THE STATE OF IDAHO, or

Plaintiff,

-vs-

Simona L. Manzanates  
Defendant.

Case No. CR-07-5446

COMMITMENT ON BOND

IT IS HEREBY ORDERED that the above-named Defendant be committed to the custody of the Sheriff of Canyon County, Idaho:

☐ Bond having been set in the sum of \$ \_\_\_\_\_

☒ Bond having been ☐ increased ☒ reduced to the sum of \$ 75,000.00

☐ Defendant shall report to the Pre-Trial Release Office if bond is posted.

☐ Defendant shall have no contact with victim whether or not bond is posted.

☐ Defendant shall not operate or be in the front seat of any motor vehicle if bond is posted.

☒ Other: if Def. released - no contact w/ known

gang members directly or indirectly  
- def to report daily to Pretrial Ref - no acces to internet

Dated: 3-30-07

Signed: [Signature]

Judge

☐ Jail

☐ Dispatch

COMMITMENT ON BOND

10/98

000052

**Caldwell Police Department**  
P.C. Affidavit / Case Synopsis

Caldwell Police CR#: 07-07518

Date Rec'd by Prosecutor: \_\_\_\_\_ By: \_\_\_\_\_ Pros. Case#: \_\_\_\_\_

Date of Offense: JAN 2007 THRU 31 MARCH 2007

Case Officer: L Hemmert #115

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON.**

THE STATE OF IDAHO

Plaintiff

vs.

**PROBABLE CAUSE AFFIDAVIT  
AND FINDING OF COURT**

MANZANARES, SIMONA LISA

Defendant

SSN #

ID

Drivers License Number

State

State of Idaho, County of Canyon SS:

L HEMMERT #115 The undersigned, being first duly sworn on oath, deposes and says:

1. I am a Peace Officer employed by the CALDWELL POLICE DEPARTMENT.
2. ☐ The Defendant was arrested on ..... **OR** ☒ A warrant is requested for the Defendant.....

For the crime (s) of: GANG RECRUITMENT

3. The crime(s) occurred in the County of Canyon, State of Idaho.

4. Identified the Defendant as: SIMONA MANZANARES

By (Check All That Apply): ☐ Military ID ☐ State ID Card ☐ Drivers License ☐ Student ID

☐ Verbal ID by Defendant ☐ Resident alien card ☐ Credit Cards

☐ Witness: \_\_\_\_\_

☐ Other: [ Enter other information here ]

000053

**Caldwell Police Department**

**P.C. Affidavit / Case Synopsis**

5. The crime(s) was committed in my presence: ☐ Yes ☒ No
6. I believe that there is probable cause that the Defendant committed such crime(s) because of the following facts; (NOTE: You must state the source of all information provided below. State what you observed and what you learned from someone else, identifying that person.)

☒ See attached narrative which is made part of this P.C. Affidavit. *supplement* *26 April 2007 Zlf*

VICTIM: Kasha Marie Koons, [REDACTED] Idaho.

On 20 April 2007 I conducted a follow up interview with Kasha Koons, DOB [REDACTED] at the Canyon county juvenile detention center located at 222 North 12 street in the city of Caldwell, state of Idaho.

I arrested Koons on 11 April 2007 on a warrant. At that time Koons voluntarily spoke to me about her involvements with east side loco gang members in the city of Caldwell. Refer to CR07-06836.

Koons spoke to me at great length about the east side loco gang. Koons spoke to me about how the leader of the east side loca's gang, Simona Lisa Manzanares, Aka "Payasa" had tried to recruit her on 2 separate occasions this year. Koons told me that each recruitment offense took place in the city of Caldwell, state of Idaho.

Manzanares was arrested on gang recruitment charges on 02/28/2007. Manzanares bonded out of jail on 03/30/2007. Refer to CR07-02816.

I did a follow up interview with Koons on 20 April 2007 after speaking with the Canyon county prosecutor.

SCU Cpl Hoadley #121 was present during this follow up interview.

I told Koons that I was not charging her with a crime and asked if she would talk with me specifically about when Simona Lisa Manzanares, Aka "Payasa" had tried to recruit her twice this year in the city of Caldwell, state of Idaho.

Koons agreed to speak with me. I made Koons no promises.

Koons told me that on or about January of 2007 Manzanares had tried to recruit her. Koons was at a friends house located at 2006 College in the city of Caldwell, state of Idaho. This is the residence of Blanca Espinoza or Latoya Ramos. Other persons present according to Koons, were Simona Manzanares, Hopi Espinoza, and Fabian Olmeda. Each of the above persons are documented east side loco gang members.

Koons told me that Simona asked her more than once, "do you wanna get jumped in because we need more loca's".

000054

Koons said she told Simona that she wanted to think about it.

Koons told me that Simona again tried to recruit her into the east side gang on 31 March 2007. Koons told me that she was with a friend named Gloria Rivera at 2710 S. Georgia Apt C, in the city of Caldwell, state of Idaho when this happened.

Koons told me that Simona was text messaging Rivera on a cell phone. Koons told me that she knew she was texting Simona Manzanares because her gang name, "Payasa" was on the display of the cell phone. Koons told me that she texted Simona a greeting. Koons told me that Simona texted her the following text message. "You should think about getting jumped in because we need more Locas" and "You should get jumped in". Koons again told Simona she would think about it.

Koons told me that she witnessed a gang jump in where Simona Manzanares was present and authorized and controlled the jump in.

Koons told me that Jessica Sanchez, Aka "Hightower" was jumped in at 1407 Arthur in the city of Caldwell, state of Idaho around February of 2007. This is the residence of Hopi Espinoza.

Koons said that Blanca Espinoza, Hopi Espinoza and Jessica Meraz did the initiation and jump in of Sanchez under Simona Manzanares direction.

Koons told me that she witnessed Simona Manzanares strike Kimberly Rathke during a gang jump. Koons told me that this occurred at 306 Blaine in the city of Caldwell, state of Idaho in the fall of 2005. Rathke is now a documented east side gang member.

I asked Koons if she would testify in court that Simona Manzanares has been trying to recruit her into the east side loco gang.

Koons told me that she would testify. Koons told me that Simona Manzanares and the east side loco gang were responsible for hurting her and her brother Noel Rodriguez. Rodriguez is a documented east side loco gang member currently in federal custody on a gang related weapon offense.

I downloaded my audio to the Caldwell "I" drive for evidence.

Included with this report is information on Simona Manzanares attempts at gang recruitment while she was in custody at the Canyon county jail after her first arrest for gang recruitment.

Agent Gant had obtained letter showing where Simona was recruiting while in custody at the Canyon county jail.

Included is my initial interview with Koons on 11 April 2007.

Citations issued on Misdemeanor(s): ☐ Yes ☐ No ☒ N/A

000055

In custody: ☐ Yes ☒ No ☒ Adult ☐  mile

				Quantity
A	Witness Identification of Suspect	<input type="checkbox"/> Yes	<input type="checkbox"/> No	0
B	Written Witness Statement(s)	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	0
C	Taped Oral Witness Statement(s)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	0
D	Photos	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	0
E	Audio Tape	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	1
F	Video Tape	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	0
G	Technical / Forensic / Lab Reports	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	0

7. If the offense is DUI or DWP, are there prior convictions: ☐ Yes ☐ No ☒ N/A

8. Property: ☐ Damaged ☐ Stolen ☐ Recovered ☐ List Attached

9. Weapons used: ☐ Yes ☒ No ☐ Seized

Type: [ Enter Weapon Type Here ] How many: [ Enter Quantity Here ]

**Caldwell Police Department**  
P.C. Affidavit / Case Synopsis

10. Statement by Defendant: ☐ Written ☐ Oral ☐ Taped

Substance of statement:

☐ Unable to locate Defendant.

☐ Defendant refuses to be interviewed.

☐ Defendant may give statement if permitted legal counsel.

☒ Warrant Requested ☐ Summons Requested ☐ In Custody

11. The following supporting documents are included with the full police report:

000056

☒ Criminal History   ☐ Driving History   ☐ Crime Scene Diagram   ☐ Evidence / Chain of Custody

12. Prosecutor contacted: ☒ Yes   ☐ No   Who: BRIAN TAYLOR

13. Supervisor's approval: \_\_\_\_\_

*[Signature]* <sup>115</sup>  
AFFIANT

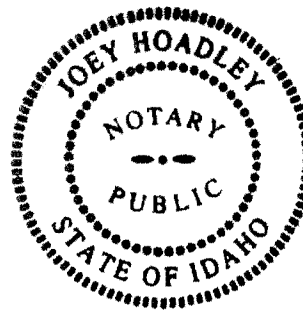
4/24/2007  
DATE

Subscribed and Sworn to before me on: 4/24/07

*[Signature]*  
Notary Public for Idaho

Residing at: CALDWELL, ID

My commission expires: 5/25/13



000057

Supplement affidavit to CR07-07518

I Larry Hemmert employed by the Caldwell Police department in the state of Idaho city of Caldwell swear to the following statement.

Kasha Marie Koons has been a suspected east side loco gang member as documented. From my training and experience the east side loco gang is a known gang in Caldwell.

-I witnessed Koons room located at 307 Everett tagged with east side loco graffiti summer of 2006.

-Koons was present with east side loco gang members during a weapon offence in the Caldwell high school.

Koons told me that she hangs with east side locos. Sept 29<sup>th</sup> 2006.

-Koons was arrested at an east side loco residence on 11 April 2007.

-Koons boyfriend is Edward Biaz as documented east side loco.

-I obtained photos of Koons throwing up the east side loco hand signs.

-Koons brother is Noel Rodriguez as documented east side loco.

-Koons also admits to backing the east side loco gang since 2005. "Backing" means from my training and experience that they are gang members.

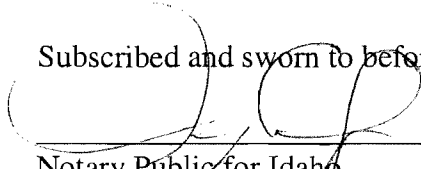
From my knowledge per Idaho code this makes Koons a gang member.

Koons was not documented in the past due to minimal criminal involvements.

  
Affiant

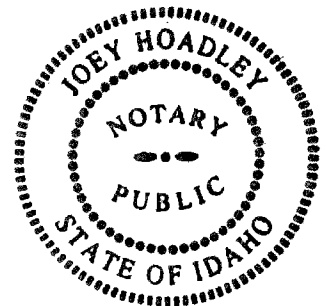
26 April 2007  
Date

Subscribed and sworn to before me on: 4/24/07

  
Notary Public for Idaho

Residing: Caldwell, ID

My commission expires: 5/25/13



000058

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

BENCH WARRANT

Case No. CR07-5446C

FILED  
A.M. P.M.

APR 27 2007

CANYON COUNTY CLERK  
T HILL, DEPUTY

TO ANY SHERIFF, CONSTABLE, MARSHAL, POLICEMAN, OR PEACE OFFICER IN  
THE COUNTY OF CANYON OR THE STATE OF IDAHO:

The Court having this date entered its order for the issuance of a Bench Warrant for the arrest of  
SIMONA MANZANAREZ for failure to comply with release conditions as heretofore ordered by this  
Court, and the above-named person having previously been charged with:

[ X ] GANG RECRUITMENT AND SUPPLY FIREARMS of Idaho Code section(s) 18-8504  
AND 18-8505

[X] Felony      [] Misdemeanor;

[ ] the offense charged on the attached Complaint, which is incorporated  
herein and made a part hereof;

YOU ARE HEREBY COMMANDED forthwith to arrest the above-named person and bring  
said person before the undersigned Judge, or if said Judge is unavailable, then before the nearest  
available Judge.

[ X ] This warrant may be served at night.

Bail: \$500,000.00

Agency: Pre-Trial Release

Dated: 4-26-07

Judge

RETURN

STATE OF IDAHO      )  
   )      ss.  
County of Canyon      )

I HEREBY CERTIFY that I received this Warrant on \_\_\_\_\_  
and served the said Warrant by arresting the within-named Defendant, \_\_\_\_\_

\_\_\_\_\_, on \_\_\_\_\_.

(Name)

(Title)

BENCH WARRANT - 1

DOCKETED

000059

CCSO



Race: MFA                      Hair: BRN    Eyes: BRN  
Height: 5'04"                  Weight: 200    DOB: [REDACTED]  
SS #: [REDACTED]              [REDACTED] TRIAL RELEASE  
Address: LKA: 2005 WILLOW APT 2 CALDWELL, ID 83605

Employment:

---

NCIC ENTRY: (Additional Levels Inclusive)

☐ Local  
☐ Statewide  
☐ Surrounding States  
☐ Western United States  
☐ Nationwide

By: \_\_\_\_\_ Dated: \_\_\_\_\_

**BENCH WARRANT - 2**

**000060**

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

BENCH WARRANT

Case No. CR07-5446C

TO ANY SHERIFF, CONSTABLE, MARSHAL, POLICEMAN, OR PEACE OFFICER IN  
THE COUNTY OF CANYON OR THE STATE OF IDAHO:

The Court having this date entered its order for the issuance of a Bench Warrant for the arrest of  
SIMONA MANZANAREZ for failure to comply with release conditions as heretofore ordered by this  
Court, and the above-named person having previously been charged with:

[ X ] GANG RECRUITMENT AND SUPPLY FIREARMS of Idaho Code section(s) 18-8504  
AND 18-8505

[X] Felony      [ ] Misdemeanor;

[ ] the offense charged on the attached Complaint, which is incorporated  
herein and made a part hereof;

YOU ARE HEREBY COMMANDED forthwith to arrest the above-named person and bring  
said person before the undersigned Judge, or if said Judge is unavailable, then before the nearest  
available Judge.

[ X ] This warrant may be served at night.

Bail: \$500,000.00

Agency: Pre-Trial Release

Dated: 4-26-07

Judge

RETURN

STATE OF IDAHO )

)

ss.

County of Canyon )

I HEREBY CERTIFY that I received this Warrant on 4/26/2007  
and served the said Warrant by arresting the within-named Defendant,

SIMONA MANZANAREZ, on 4/26/2007.

D. TADOK 120  
(Name)

OFFICER / CRO  
(Title)

BENCH WARRANT - 1

DOCKETED

000061

Race: MFA [REDACTED] BRN  
Height: 5'04" Weight: 200 DOB: [REDACTED]  
SS # [REDACTED] Agency: PRE TRIAL RELEASE  
Address: LKA: 2005 WILLOW APT 2 CALDWELL, ID 83605

Employment:

---

NCIC ENTRY: (Additional Levels Inclusive)

☐ Local  
☐ Statewide  
☐ Surrounding States  
☐ Western United States  
☐ Nationwide

By: \_\_\_\_\_ Dated: \_\_\_\_\_

BENCH WARRANT - 2

000062

**RICHARD L. HARRIS**  
**Attorney At Law**  
**P.O. Box 1438**  
**1023 Arthur Street**  
**Caldwell, Idaho 83606**  
**Telephone: (208) 459-1588**  
**Facsimile: (208) 459-1300**  
**ISB No. 1387**

FILED  
 MAY 03 2007  
 A.M. P.M.

CANYON COUNTY CLERK  
 B RAYNE, DEPUTY

Attorney for Defendant

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF  
 IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO	)	Case No. CR-2007-05446
	)	
Plaintiff,	)	
	)	
vs.	)	MOTION TO QUASH ARREST
	)	WARRANT AND/OR SETTING
SIMONA MANZANARES,	)	BAIL AND NOTICE OF HEARING
	)	
Defendant.	)	

COMES NOW, the above-named Defendant by and through her attorney and moves this court for an order quashing the arrest warrant for violating terms of release and order setting bail filed in this court on or about April 26, 2007. The grounds and reasons for this motion are as follows:

I.

That the Order of the court and the Findings and Support thereof dated April 26, 2007 is based upon the Affidavit of Larry Hemmert of the Caldwell Police Department.

MOTION TO QUASH ARREST WARRNAT AND/OR  
 SETTING BAIL AND NOTICE OF HEARING - 1

000063

## II.

That the Affidavit of Larry Hemmert dated April 24, 2007 is not based upon the personal knowledge of Hemmert but merely recites the hearsay statements of one Kasha Koons.

## III.

That the hearsay testimony contained in the Hemmert affidavit as given by Koons is not credible and is false.

## IV.

That attached and accompanying this motion are the Affidavits of Gloria Rivera which specifically refutes the hearsay testimony of the Hemmert affidavit of Koons as well as the Affidavit of Ruby Harkins which also refutes the hearsay testimony of Kasha Koons given to Hemmert.

## V.

That undersigned counsel is aware based upon communication with courthouse personnel that Hemmert and Hoadley of the Caldwell Police Department were angry that Simona Manzanares had been able to bond of jail and that they were going to do everything possible to make sure she was returned to jail.

## VI.

That the Affidavit of Hemmert based upon the testimony of Kasha Koons is incredible and should be stricken by the court and that the findings of the court that the Defendant Simona Manzanares has associated with a known or suspected gang member

which violated her terms of her earlier release is not supported by credible evidence, but rather incredible hearsay.

Therefore it is respectfully requested that the court set aside it's findings and order to issue arrest warrant for violating the terms of release and further that the court quash bail in the amount of \$500,000.00 and reinstate the commitment on bond and all of it's particulars dated March 30, 2007.

DATED: This 2 day of May, 2007.



RICHARD L. HARRIS

#### NOTICE OF HEARING

TO: DAVID L. YOUNG, CANYON COUNTY PROSECUTOR.

WILLIAM H. HURST, CLERK OF THE COURT

YOU AND EACH OF YOU please take notice that the above-named Defendant will call for hearing her Motion on the 4th day of May, 2007 at the hour of 9:00 o'clock A.M. or as soon as thereafter the matter can be heard in the above-entitled courtroom, Canyon County Courthouse, Caldwell, Idaho before the Honorable Judge Petrie.

DATED: This 2 day of May, 2007.



RICHARD L. HARRIS

MOTION TO QUASH ARREST WARRANT AND/OR  
SETTING BAIL AND NOTICE OF HEARING - 3

000065

## CERTIFICATE OF SERVICE

I the undersigned do hereby certify that a true and correct copy of the foregoing instrument was served on the following this 2 day of May, 2007.

DAVID L. YOUNG  
Canyon County Prosecutor  
Canyon County Courthouse  
1115 Albany Street  
Caldwell, Idaho 83605

UNITED STATES MAIL

COURTHOUSE BASKET

☒ FACSIMILE

  
RICHARD L. HARRIS

MOTION TO QUASH ARREST WARRANT AND/OR  
SETTING BAIL AND NOTICE OF HEARING - 4

000066

FILED  
A.M. P.M.

MAY 03 2007

CANYON COUNTY CLERK  
B RAYNE, DEPUTY

**RICHARD L. HARRIS**  
**Attorney At Law**  
**P.O. Box 1438**  
**1023 Arthur Street**  
**Caldwell, Idaho 83606**  
**Telephone: (208) 459-1588**  
**Facsimile: (208) 459-1300**  
**ISB No. 1387**

Attorney for Defendant

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF  
IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO

Plaintiff,

vs.

SIMONA MANZANARES,

Defendant.

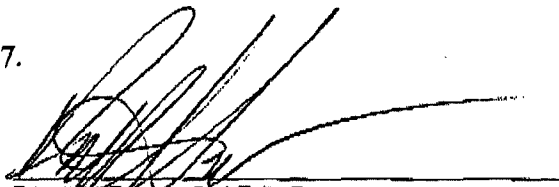
Case No. CR-2007-05446

MOTION TO SHORTEN TIME TO  
MOTION TO QUASH ARREST  
WARRANT AND/OR SETTING  
BAIL AND NOTICE OF HEARING

COMES NOW, RICHARD L. HARRIS, attorney for the Defendant in the above  
entitled matter, and moves the Court for an Order shortening the time in which to have  
her Motion to Quash Arrest Warrant And/Or Setting Bail heard on the 4<sup>th</sup> day of May,  
2007 at the hour of 9:00 o'clock a.m.

This Motion is based upon the records and pleadings on file herein, and upon the  
grounds insufficient time exist between now and the hearing date for proper notice of  
opposing counsel.

DATED: This 2 day of May 2007.

  
RICHARD L. HARRIS

MOTION TO SHORTEN TIME TO HEAR MOTION TO QUASH ARREST  
WARRANT AND/OR SETTING BAIL AND NOTICE OF HEARING - 1

000067



## CERTIFICATE OF SERVICE

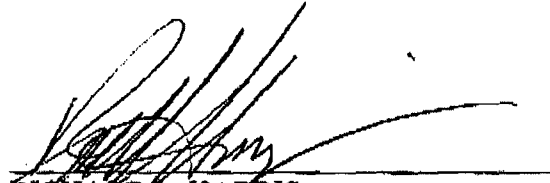
I the undersigned do hereby certify that a true and correct copy of the foregoing instrument was served on the following this 2 day of May, 2007.

DAVID L. YOUNG  
Canyon County Prosecutor  
Canyon County Courthouse  
1115 Albany Street  
Caldwell, Idaho 83605

UNITED STATES MAIL

COURTHOUSE BASKET

☒ FACSIMILE

  
RICHARD L. HARRIS

MOTION TO SHORTEN TIME TO HEAR MOTION TO QUASH ARREST  
WARRANT AND/OR SETTING BAIL AND NOTICE OF HEARING - 2

000068

FILED  
A.M. P.M.

MAY 03 2007

**RICHARD L. HARRIS**  
**Attorney At Law**  
**P.O. Box 1438**  
**1023 Arthur Street**  
**Caldwell, Idaho 83606**  
**Telephone: (208) 459-1588**  
**Facsimile: (208) 459-1300**  
**ISB No. 1387**

CANYON COUNTY CLERK  
B RAYNE, DEPUTY

Attorney for Defendant

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF  
IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO

Plaintiff,

vs.

SIMONA MANZANARES,

Defendant.

Case No. CR-2007-05446

AFFIDAVIT OF  
RUBY HARKINS

STATE OF IDAHO

County of Canyon

RUBY HARKINS, upon her oath having been first duly sworn deposes and says:

1. My name is Ruby Harkins and I reside in the City of Caldwell, Canyon County, State of Idaho.
2. That I have reviewed an Affidavit of Larry Hemmert a officer with the Caldwell Police Department.
3. The affidavit of Hemmert states that a Kassia Koons was arrested by him on April 11, 2007 on a warrant. The affidavit further states "I did a follow up interview with Koons on 20 April 2007 after speaking with the Canyon

AFFIDAVIT OF RUBY HARKINS - 1

000069

County Prosecutor... I told Koons that I was not charging her with a crime and asked if she would talk with me about when Simona Lisa Manzanares aka "Payasa" has tried to recruit her twice this year in the city of Caldwell, State of Idaho. Koons agreed to speak with me. I made no promises. Koons told me that on or about January of 2007, Manzanares tried to recruit her. Koons was at a friend's house located at 2006 College in the City of Caldwell, State of Idaho. This is the residence of Blanca Espinoza or Latoya Ramos. Other persons present according to Koons, were Simona Manzanares, Hopi Espinoza, and Fabian Olmeda. Each of the above persons are documented east side loco gang members. Koons told me that Simony asked her more than once, "do you want get jumped in because he need more loca's."

4. I do not believe that the information provided by Kassia Koons to Mr. Hemmert was credible.

5. Of my own personal knowledge I know that Simona Manzanares from January 3, 2007 to at least January 21, 2007 was not in the State of Idaho but was in Ogden, Utah, for a funeral of a family member. While in Utah

we stayed at the Hampton Inn and attached is the documentation for the time spent at the Hampton Inn. The rest of the time we stayed with family members. Also attached to this affidavit are photographs taken in Ogden, Utah one of which shows Simona with two cousins, one of her getting into her car at the Ogden Cemetery and the other of the cemetery. In addition

I have enclosed the obituary of Krisit Mendoza whose funeral and services we attended.

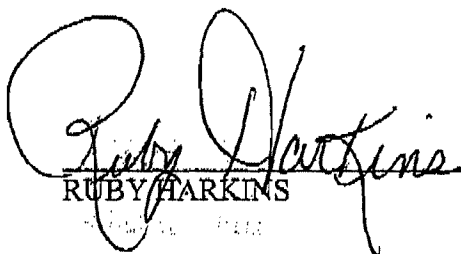
6. Amanda Gallegos, Lydia Manzanares, Lisa McJunkin, Maria Mendoza and myself are all persons that can verify that during that time frame Simona Manzanares was not even in the State of Idaho.

7. The Hemmert affidavit also states that Koons told me that Simona again tried to recruit her into the east side gang on 31 March 2007. ... Koons told me that Simona was text messaging Rivera on a cell phone. Koons told me that she knew she was texting Simona Manzanares gang name, "Payasa" was on display of the cell phone. Koons told me that she texted Simona a greeting. Koons told me that Simona texted her the following text message. "You should think about getting jumped in because we need more locas" and "you should get jumped in".

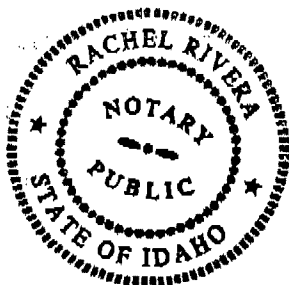
8. I am aware that Simona Manzanares had been arrested on gang recruitment charges on or about February 28, 2007 and I know that she was bonded out of jail on March 30, 2007.

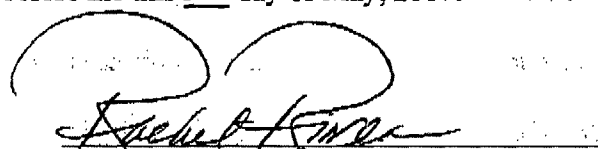
9. That when Simona was released from jail on March 30, 2007 she came and lived with me and that I was with her all day on March 31, 2007. I know of my own personal knowledge that she did not receive any communication by cell phone from either Gloria Rivera or Kassia Koons and that Simona did not text message Rivera or Koons nor did Simona make any statements to Koons about getting jumped in because we need more locas.

10. I know that Simona did not text message anybody or communicate with anybody by cell phone on March 31, 2007 because she did not have a cell phone on that date. Her cell phone was in the possession of her fiancée at she did not get that cell phone back from her fiancée until on or about April 6, 2007.
11. The hearsay statements Koons gave to Hemmert as set forth in Hemmerts affidavit as set forth herein are not true and are false.

  
RUBY HARKINS

SUBSCRIBED and SWORN to before me this 2 day of May, 2007.



  
Notary Public for Idaho  
Residing At: Caldwell  
My Commission Expires: 3/27/2013



000073







24 WASHINGTON BLVD.  
OGDEN, UT 84401  
TELEPHONE 801-394-9400

FAX 801-394-9500

official sponsor u.s. olympic team



HARKINS, RUBY  
3270 S SHOSHONE

name  
address

room number: 320/SXBL  
arrival date: 01/11/07 10:09AM  
departure date: 01/12/07 1:15PM R  
adult/child: 1/0  
room rate: 49.00 LV1

BOISE, ID 83705  
US

If the debit/credit card you are using for check-in is attached to a bank or checking account, a hold will be placed on the account for the full anticipated dollar amount to be owed to the hotel, including estimated taxes, through your date of check-out and such funds will not be released for 12 business hours from the date of check-out or longer at the discretion of your financial institution.

RATE PLAN  
HH  
AL  
CAR

CONFIRMATION NUMBER : 85724507

Rates subject to applicable sales, occupancy, or other taxes. Please do not leave any money or items of value unattended in your room. A safety deposit box is available for you in the lobby. I agree that my liability for this bill is not waived and agree to be held personally liable in the event that the indicated person, company or association fails to pay for any portion of the full amount of these charges. I have requested weekly delivery of USA TODAY. If refused, a charge of \$ .75 will be applied to my account. In the event of an emergency, I, or someone in my party, require special evacuation due to a physical disability. Please indicate yes by checking here: ☐

signature:

04/28/07 PAGE 1

DATE	ROOM NO.	DESCRIPTION	AMOUNT
01/11/07	213875	GUEST ROOM	\$49.00
01/11/07	213875	CITY/STATE TAX	\$3.23
01/11/07	213875	OCCUPANCY TAX	\$2.50
01/12/07	213985	VS *0415	(\$54.73)
		** BALANCE **	\$0.00

for reservations call 1.800.hampton or visit us online at [www.hamptoninn.com](http://www.hamptoninn.com)

ACCOUNT NO. VS *0415	DATE OF CHARGE 01/11/07	FOLIO/CHECK NO. 77964 A
CARD MEMBER NAME HARKINS, RUBY	AUTHORIZATION 071727	INITIAL
ESTABLISHMENT NO. AND LOCATION	PURCHASES & SERVICES	
	TAXES	
	TIPS & MIC.	
SIGNATURE OF CARD MEMBER X	TOTAL AMOUNT	-54.73

The Hilton Family

Hilton

Hampton Inn

Hampton Suites

Hampton

Hampton

Hampton

Hampton

Hampton

thanks.

000075



RICHARD L HARRIS  
Ogden Lodge  
2110 Washington Blvd.  
Ogden, Utah 84401  
801 394 4563  
none

Page #1

RUBY HARKINS

Room: 125 DOUBLE NS Daily  
Check-in: 01/08/07 Out: 01/11/07 Nights: 3  
ID:

Date	CHARGES					PAYMENT					Balance
	Room	Phone	Misc.	Tax	Total	Credit	Cash	Bill	Total		
01/08/07	48.00	0.00	0.00	5.14	53.14	53.14 VM	0.00	0.00	53.14	0.00	
01/09/07	48.00	0.00	0.00	5.14	53.14	0.00	106.28	0.00	106.28	-53.14	
01/10/07	48.00	0.00	0.00	5.14	53.14	0.00	0.00	0.00	0.00	0.00	
TOTAL	144.00	0.00	0.00	15.42	159.42	53.14	106.28	0.00	159.42	0.00	

AMOUNT TENDERED: \$0.00  
CHANGE: \$0.00

Check-out time: 11:00am Check-in time: 11:00pm

000076

FILED  
A.M. P.M.

MAY 03 2007

**RICHARD L. HARRIS**  
**Attorney At Law**  
**P.O. Box 1438**  
**1023 Arthur Street**  
**Caldwell, Idaho 83606**  
**Telephone: (208) 459-1588**  
**Facsimile: (208) 459-1300**  
**ISB No. 1387**

CANYON COUNTY CLERK  
 B RAYNE, DEPUTY

Attorney for Defendant

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF  
 IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO

Plaintiff,

vs.

SIMONA MANZANARES,

Defendant.

Case No. CR-2007-05446

AFFIDAVIT OF  
 GLORIA RIVERA

STATE OF IDAHO

County of Canyon

GLORIA RIVERA, upon her oath having been first duly sworn deposes and says:

1. My name is Gloria Rivera, and I reside in the City of Caldwell, Canyon County, Idaho.
2. That I am fifteen (15) years old and in the eighth (8<sup>th</sup>) grade at Syringa Middle School in Caldwell.
3. I have been asked to review a Probable Cause Affidavit signed by Larry Hemmert, an Officer with the Caldwell City Police Department, dated April 24, 2007.

AFFIDAVIT OF GLORIA RIVERA - 1

000077

4. In the Affidavit Mr. Hemmert make a references to a statement made to him by Kasha Marie Koons, an incident that Koons said occurred on March 31, 2007 at 2710 S. Georgia, Apt. C, in the City of Caldwell.

5. Hemmert's Affidavit says that "Koons told me that she was with a friend named Gloria Rivera at 2710 S. Georgia, Apt. C in the City of Caldwell, State of Idaho when this happened." Koons apparently had told the officer that Simona Manzanares had tried to recruit her into the east side gang on March 31, 2007. The Hemmert affidavit continues: "Koons told me that Simona was text messaging Rivera on a cell phone. Koons told me that she knew she was texting Simona Manzanares because her gang name,

"Payasa" was on the display of the cell phone. Koons told me she texted Simona a greeting. Koons told me that Simona texted her the following text message: "You should think about getting jumped in because we need more Locas" and "you should get jumped in" "Koons again told Simona she would think about it."

6. The information provided to Hemmert is false in at least several particulars:

- a.) First, I have not had any conversations nor association or contact with Kassia Koons for over one year.
- b.) I did not have any contact nor was I with Kasha Koons on March 31, 2007 at 2710 S. Georgia, Apt. C in the City of Caldwell.

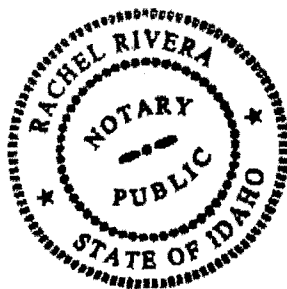
- c.) The address of 2710 S. Georgia, Apt., C, Caldwell, Idaho was the former address of my sister but my sister had vacated and terminated her residency at that address on or before March 12, 2007.
- d.) I was not at the address of 2710 S. Georgia, Apt. C, Caldwell, Idaho on March 31, 2007 nor was I with Kassia Koons on that date.
- e.) I did not receive any text messages from Simona Manzanares on March 31, 2007.

7. I am acquainted with Kassia Koons and know of her reputation for truth, honesty and veracity in the Caldwell area and that reputation is not good.

8. I know of my own personal knowledge that the information contained in Hemmert's affidavit and the information provided to him by Kassia Koons is not true and is false.

Gloria Rivera  
GLORIA RIVERA

SUBSCRIBED and SWORN to before me this 2 day of May, 2007



Rachel Rivera  
Notary Public For Idaho


Residing At: Caldwell  
My Commission Expires: 3/27/2013

## CERTIFICATE OF SERVICE

I the undersigned do hereby certify that a true and correct copy of the foregoing instrument was served on the following this 2 day of May, 2007.

DAVID L. YOUNG  
Canyon County Prosecutor  
Canyon County Courthouse  
1115 Albany Street  
Caldwell, Idaho 83605

UNITED STATES MAIL  
COURTHOUSE BASKET  
☒ FACSIMILE

  
RICHARD L. HARRIS

**RICHARD L. HARRIS**  
**Attorney At Law**  
**P.O. Box 1438**  
**1023 Arthur Street**  
**Caldwell, Idaho 83606**  
**Telephone: (208) 459-1588**  
**Facsimile: (208) 459-1300**  
**ISB No. 1387**

Attorney for Defendant

F I L E 2390  
MAY 03 2007 P.M.

CANYON COUNTY CLERK  
DEPUTY  
*M. Adams*

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF  
IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO	)	Case No. CR-2007-05446
	)	
Plaintiff,	)	
	)	
vs.	)	AFFIDAVIT OF
	)	SIMONA MANZANARES
SIMONA MANZANARES,	)	
	)	
Defendant.	)	
<hr/>		
STATE OF IDAHO	)	
	:	
County of Canyon	)	

SIMONA L. MANZANARES, upon her oath having been first duly sworn  
deposes and says:

1. That I was released from jail on a bond by Order of Gordon Petrie, District  
Judge dated March 30, 2007.
2. I understood that as a condition of such release I was to have no contact  
with known gang members directly or indirectly and I was to report daily  
to Pre-Trial release.

3. I affirmatively state that I since my release on March 30, 2007 have had no contact with any known gang members directly or indirectly and that I contacted Pre-Trial release.
4. I have reviewed the Affidavit of officer Hemmert of the Caldwell City Police Department which contains the hearsay testimony of Kasha Koons and declare the information given in that affidavit by Koons about me text messaging her on March 31, 2007 is false and the hearsay testimony given by Koons in said affidavit an incident in January 2007 also is false.

*Subscribed and sworn to before me the undersigned Notary Public this 3rd day of May 2007.*

*Richard L. Harris*

**HARRIS**  
NOTARY PUBLIC  
IDAHO

*Simona Manzanares*  
SIMONA MANZANARES

CERTIFICATE OF SERVICE

I the undersigned do hereby certify that a true and correct copy of the foregoing instrument was served on the following this 3 day of May, 2007.

DAVID L. YOUNG  
Canyon County Prosecutor  
Canyon County Courthouse  
1115 Albany Street  
Caldwell, Idaho 83605

UNITED STATES MAIL  
☒ COURTHOUSE BASKET  
FACSIMILE

*Richard L. Harris*  
RICHARD L. HARRIS

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON  
PRESIDING: **GORDON W. PETRIE** DATE: MAY 4, 2007

THE STATE OF IDAHO,	)	COURT MINUTES
	)	
Plaintiff,	)	CASE NO: CR-2007-5446-C
	)	
vs.	)	TIME: 9:00 A.M.
	)	
SIMONA LIZA MANZANARES,	)	REPORTED BY: Yvonne Hyde-Gier
	)	
Defendant.	)	DCRT 5 (1019-1044)
	)	

---

This having been the time heretofore set for **motion hearing** in the above entitled matter, the State was represented by Mr. Aaron Bazzoli and Mr. Scott James, Deputy Prosecuting Attorney for Canyon County, and the defendant appeared in court with counsel, Mr. Richard Harris.

Mr. Bazzoli requested the Court set this matter out a week so he would have additional time to review the motion.

Mr. Harris presented argument in objection to set this matter out, further; he presented argument in support of the defendant's motion to quash the arrest warrant.

Mr. Bazzoli presented argument in objection to said motion.

The Court ordered the defendant released on the original bond set at \$75,000.00 and ordered her to have no contact with any known or suspected gang member, no access to the internet and no gang recruitment activity allowed.



The defendant was released on the bond previously posted.

----



---

Deputy Clerk

THIRD JUDICIAL DISTRICT  
STATE OF IDAHO  
COUNTY OF CANYON

FILED 5-4-07 AT 10:30A M.  
CLERK OF THE DISTRICT COURT  
BY E. Mohr, Deputy

THE STATE OF IDAHO,

Plaintiff,

-vs-

Simona Liza Manzanares  
Defendant.

Case No. CR-07-5446-C

ORDER TO RELEASE

TO THE SHERIFF OF CANYON COUNTY, STATE OF IDAHO:

YOU ARE HEREBY ORDERED to release from custody Above named  
presently confined in the CANYON COUNTY JAIL on a charge of gang recruitment

☒ Bail having been posted. — original \$75,000 Bond posted.

☐ Fine and costs have been fully paid.

☐ Jail term having been fully served.

☐ Released on own recognizance.

☐ Case dismissed.

☐ Defendant placed on probation.

☒ Other: ~~Warrant Quashed~~ SAME terms! DEF to  
have NO contact with known or suspected gang members\*

☐ Released on own recognizance to pre-trial services. Defendant shall report to the Pre-Trial Release Office immediately upon release from custody and shall comply with all conditions set forth in the pre-trial release agreement.

☐ Defendant shall have no contact with victim.

☐ Defendant shall not operate, nor be in the driver's position, of any motor vehicle.

Dated: 5-4-07

Signed: [Signature]  
Judge

☒ Court

☒ Jail

☐ Pre-Trial Services

ORDER TO RELEASE

\*directly or indirectly; No access  
to internet; NO gang recruitment activity  
is allowed. 000085 8/97

RICHARD L. HARRIS  
ATTORNEY AT LAW  
1023 Arthur Street  
P. O. Box 1438  
Caldwell, Idaho 83605  
Telephone: (208) 459-1588  
Fax: (208) 459-1300  
ISB No. 1387

**F I L E D**  
A.M. P.M.  
**MAY 07 2007**  
CANYON COUNTY CLERK  
B RAYNE, DEPUTY

Attorney For Defendant

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO	)	
	)	CASE NO. CR-2007-05446
Plaintiff,	)	
	)	
vs.	)	
	)	MOTION TO EXTEND TIME FOR
SIMONZA MANZANARES	)	THE FILING OF PRE-TRIAL MOTIONS
	)	AND NOTICE OF HEARING
Defendant.	)	
_____	)	

COMES NOW, the above-named Defendant by and through his attorney of record and moves this Court for it's Order extending the time in which to file Pre-Trial motions in the above-entitled action. The grounds and reasons for this motion are as follows:

I.

That discovery is not complete which is necessary so that Defendant can evaluate the evidence to determine what if any Pre-Trial motions need to be filed in the above-entitled matter.

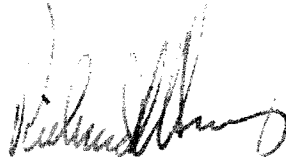
II.

That counsel for the Defendant has made specific request for discovery which has not yet been supplied to counsel which counsel must review prior to filing any Pre-Trial motions.

III.

That the interests of justice would be served by the granting of extension of time in which to file motions.

DATED: This 18 day of May, 2007.



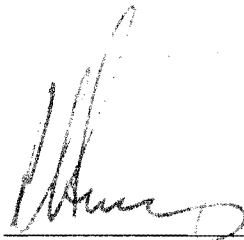
RICHARD L. HARRIS

**NOTICE OF HEARING**

TO: DAVID L. YOUNG, CANYON COUNTY PROSECUTOR; and  
WILLIAM H. HURST, CLERK OF THE COURT.

YOU AND EACH OF YOU, please take notice that the above-named Defendant will call for hearing his Motion To Extend Time To File Pre-Trial Motions on the 21<sup>st</sup> day of June, 2007 at the hour of 9:00 o'clock A.M., in the above entitled courtroom, Canyon County Courthouse, before the Honorable Judge Petrie.

DATED: This 18 day of May, 2007.



RICHARD L. HARRIS

**CERTIFICATE OF SERVICE**

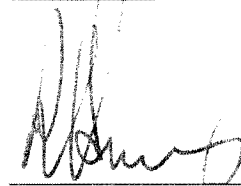
I the undersigned do hereby certify that a true and correct copy of the foregoing instrument was served on the following this 7 day of May, 2007.

DAVID L. YOUNG  
Canyon County Prosecutor  
Canyon County Courthouse  
1115 Albany Street  
Caldwell, Idaho 83606

\_\_\_\_\_  
UNITED STATES MAIL

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✓  
COURTHOUSE BASKET

\_\_\_\_\_  
FACSIMILE



\_\_\_\_\_  
RICHARD L. HARRIS

RICHARD L. HARRIS  
ATTORNEY AT LAW  
1023 Arthur Street  
P. O. Box 1438  
Caldwell, Idaho 83605  
Telephone: (208) 459-1588  
Fax: (208) 459-1300  
ISB No. 1387

**FILED**  
A.M. 350 P.M.  
JUN 12 2007  
CANYON COUNTY CLERK  
J MEYERS, DEPUTY

Attorney For Defendant

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO	)	
	)	CASE NO. CR-2007-05446
Plaintiff,	)	
	)	
vs.	)	MOTION TO DISMISS
	)	AND NOTICE OF HEARING
SIMONZA MANZANARES	)	
	)	
Defendant.	)	
	)	

COMES NOW, the above-named Defendant and moves this Court for it's Order dismissing the criminal complaint in the above-entitled case upon the reasons and grounds as follows:

I.

That in Count II the Defendant is charged with the violation of Idaho 18-8505 which is entitled "Supplying Firearm To A Criminal Gang" the charging language states "(1) a person commits the offense of supplying firearms to a criminal gang if the person knows an individual is a gang member and supplies, sales, or give possession or control of any firearm to that gang member."

MOTION TO DISMISS AND NOTICE OF HEARING - 1

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II.

Idaho Code §18-8505 is unconstitutional in violation of the provisions of Article I Section 11 of the Constitution of the State of Idaho and the 2<sup>nd</sup> Amendment of the Constitution of the United States.

III.

The 2<sup>nd</sup> Amendment to the Constitution of the United States made applicable to the States by virtue of the 14<sup>th</sup> Amendment to the Constitution provides “...the right of the people to keep and bear arms shall not be infringed.” Article 1 Section 11 of the Idaho Constitution provides “the people have the right to keep and bear arms, which right shall not be abridged;...” Article 1 Section 11 does allow the legislature to regulate the carrying of concealed weapons, establishments of minimum sentences for crimes committed while in the possession of a fire arm. Penalties for possession of firearms by convicted felon, or punishment for the use of a firearm.

IV.

Idaho Code §18-8505 attempts to criminalize what would be otherwise be lawful possession of a firearm pursuant to the United States and Idaho Constitutions. To the extent that Idaho Code §18-8505 does so, it constitutes an abridgement and infringement of the constitutional rights of citizens.

V.

There is no allegation that the Defendant charged in this case is a convicted felon or is a person not entitled to legitimate possession of a firearm, neither is there an allegation that the Defendant gave or supplied a firearm to a person not qualified to

possess a firearm in accordance with the provision of the United States and Idaho Constitution.

VI.

Therefore Idaho Code §18-8505 creates a category of otherwise legal conduct making that conduct subject to a criminal penalty in violation of the United States and Idaho Constitution and therefore Idaho Code §18-8505 is unconstitutional on its face.

VII.

In addition the Defendant is charged in Count I of the crime of recruiting criminal gang members.

VIII.

Idaho Code §18-8504 provides: “(1) a person commits the offense of recruiting criminal gang members by: (a) knowingly soliciting, inviting, encouraging or otherwise causing a person to actively participate in a criminal gang; or (b) knowingly using force, threats, violence or intimidation directed at any person, or by inflicting of bodily injury upon any person, to actively participate in a criminal gang.”

IX.

Idaho Code §18-8504 violates the terms and provisions of the 1<sup>st</sup> Amendment of the United States Constitution and Article 1 Section 9, and Article 1 Section 10 of the Idaho Constitution. The 1<sup>st</sup> Amendment to the United States Constitution is made applicable to the States by the virtue of the 14<sup>th</sup> Amendment.

X.

Idaho Code §18-8504 impermissibly criminalizes rights of speech or of self expression or of assembly without requiring any evidence of an overt violation of any criminal statute.



XI.

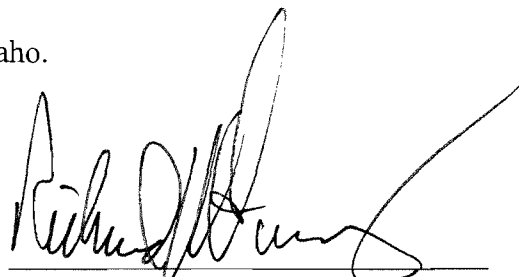
That Idaho Code §18-8504 is unconstitutionally vague and violates the specific provisions of the United States and Idaho Constitutions with respect to freedom of speech, self expression and assembly.

XII.

The charging language of Count I is vague to the point of being meaningless and the Defendant is unable to adequately defend herself by not knowing the identity of the "person" or the specific conducted alleged to bring her within the purview of the statute.

It is therefore respectfully requested that the Court dismiss the Criminal Complaint filed by this Defendant in the State of Idaho.

DATED: This 12 day of June, 2007.


  
RICHARD L. HARRIS

NOTICE OF HEARING

TO: DAVID L. YOUNG, CANYON COUNTY PROSECUTOR; and  
WILLIAM H. HURST, Clerk of the Court

YOU AND EACH OF YOU please take notice that the above-named Defendant will call for hearing her Motion To Dismiss on the 3<sup>rd</sup> day of July, 2007, at the hour of 10:00 o'clock A.M. or as soon thereafter as the matter can be heard in the above-entitled courtroom, Canyon County Courthouse, Caldwell, Idaho, before the Honorable Judge Culet.

DATED: This 12 day of June, 2007.

  
RICHARD L. HARRIS

CERTIFICATE OF SERVICE

I the undersigned does hereby certify that a true and correct copy of the foregoing instrument was served on the following this 02 day of June, 2007.

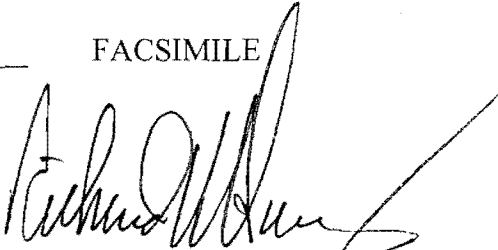
DAVID L. YOUNG  
Canyon County Prosecutor  
Canyon County Courthouse  
1115 Albany Street  
Caldwell, Idaho 83605

☒   
☐   
☐

UNITED STATES MAIL

COURTHOUSE BASKET

FACSIMILE

  
RICHARD L. HARRIS

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON  
PRESIDING: **HONORABLE GREGORY M. CULET** DATE: **JUNE 21, 2007**

STATE OF IDAHO	)	
	)	COURT MINUTE
Plaintiff	)	
	)	CASE NO. CR-2007-5446*C
-VS-	)	
	)	
	)	
SIMONA LIZA MANZANARES	)	REPORTED BY: PATRICIA TERRY w/ Tucker
Defendant	)	
	)	DSTRCT1 919-922

This having been the time heretofore set for **pre trial** in the above-entitled matter, the State was represented by counsel, Ms. Rondee Blessing, Deputy Prosecuting Attorney for Canyon County. The defendant was present with counsel, Mr. Richard Harris.

The Court reviewed prior proceedings and noted the motion to dismiss filed by defense counsel.

The State requested that the pre trial be continued until the motion hearing.

The Court noted the defendant's motion to extend time filed in this matter as well.

Mr. Harris advised the Court on June 12, 2007, he filed a motion to dismiss. Mr. Harris stated that he would file a second motion to dismiss today and the memorandum in support would be filed next week.

The Court continued this matter until **July 3, 2007 at 10:00 a.m.** in front of the **Honorable Gregory M. Culet.**

The defendant was continued released on the bond previously posted with the instruction to stay in contact with her attorney.

DISTRICT COURT MINUTE  
June 21, 2007

**000094**

  
Deputy Court Clerk

DISTRICT COURT MINUTE  
June 21, 2007

000095

RICHARD L. HARRIS  
ATTORNEY AT LAW  
1023 Arthur Street  
P. O. Box 1438  
Caldwell, Idaho 83605  
Telephone: (208) 459-1588  
Fax: (208) 459-1300  
ISB No. 1387

F I L E D  
A.M. 2:30 P.M.  
JUN 21 2007  
CANYON COUNTY CLERK  
M ADAMSON, DEPUTY

Attorney For Defendant

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO	)	
	)	CASE NO. CR-2007-05446
Plaintiff,	)	
	)	
vs.	)	
	)	SUPPLEMENTARY MOTION
SIMONZA MANZANARES	)	TO DISMISS AND NOTICE
	)	OF HEARING
Defendant.	)	
	)	

COMES NOW, the above-named Defendant by and through Counsel and moves this Court for an Order dismissing the information filed in the above-entitled action on the grounds and for the following reasons:

I.

The Defendant is charged for a violation of Idaho Code §18-8504, recruiting criminal gang members. The statute is defined as follows:

- “(1) A person commits the offense of recruiting criminal gang members by:
- (a) normally soliciting, inviting, encouraging or otherwise causing a person to actively participate in a criminal gang.”

Idaho Code §18-8502 (1) defines a criminal gang as:

“An ongoing organization, association or group of three (3) or more persons whether formal or informal, that has a common name or common identifying sign or symbol whose members individually engaged or collectively in or have engaged in a pattern of criminal gang activity, having as one (1) of it’s primary activities the commission of one (1) or more of the criminal acts enumerated in subsection (3) of this section.”

Idaho Code §18-8502 defines a criminal gang member as:

“... any person who engages in a pattern of criminal gang activity and who meets two (2) or more of the following criteria:

- (a) admits to gang membership;
- (b) is identified as a gang member;
- (c) resides in or frequents a particular gang’s area and adopts it’s style of dress, it’s use of hand signs or it’s tattoos, and associates with known gang members;
- (d) has been arrested more than once in the company of identified gang members for offenses that are consistent with usual gang activity;
- (e) is identified as a gang member by physical evidence such as photographs or other documentation; or
- (f) has been stopped in the company of known gang members four (4) or more times.

The charging language for the crime of recruiting criminal gang members as against this Defendant does not provide this Defendant with information necessary to adequately defend against the charge. The charging language does not identify the criminal gang in question, nor does it allege that the Defendant is a criminal gang member and the specific allegations of what makes the Defendant a criminal gang member nor does the charging language factually identify the specific conduct that brings the Defendant within the preview of Idaho Code §18-8504. Moreover the definitions of criminal gang and the criminal gang member are so vague as to dragnet lawful conduct to the extent of making lawful conduct criminal by definition. That the language of the statute are therefore unconstitutionally vague and by definition make otherwise lawful conduct criminal.

### III.

In addition the Defendant is charged with a violation Idaho Code §18-8505 supplying fire arms to a criminal gang. That section provides that “a person commits the offense of supplying firearms to a criminal gang if the person knows an individual is a gang member and supplies, sells or gives possession or control of any fire arm to that gang member.” Again, the charging language depends upon the definition of criminal gang and criminal gang member. The charging language of the information against the Defendant does not provide the Defendant enough information in which the Defendant can adequately defend herself. Moreover the charging language and definitions make criminal what would otherwise be lawful conduct.

### IV.

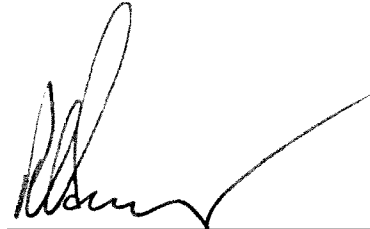
The language of the statute, because it incorporates lawful conduct and makes that conduct criminal by definition unlawful is unconstitutionally vague and the Defendant is not able to adequately defend herself because neither the definitions or the charging language against this Defendant provide sufficient notice of wrongful conduct to enable her to defend herself.

### V.

It is therefore respectfully requested that the Court dismiss the charges against the Defendant’s because “(1) the language utilized against the Defendant is vague and ambiguous and the Defendant is left not knowing what specifically she is defending against; and (2) By definition lawful conduct is made criminal by the definition and therefore violates the Defendant’s individual rights of expression and association; and (3)

because the vagueness of the charging language the Defendant is unable to defend herself without a Bill of Particulars or without overt acts that bring her within the definitions set forth in the statutes analogous to overt acts in a charge of conspiracy and without such specific acts the Defendant cannot adequately defend herself.

DATED: This 21 day of June, 2007.

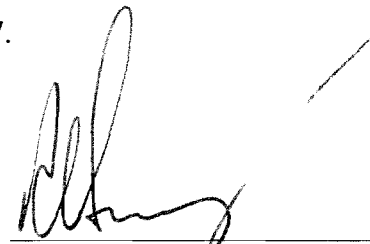
  
\_\_\_\_\_  
RICHARD L. HARRIS

**NOTICE OF HEARING**

TO: DAVID L. YOUNG, CANYON COUNTY PROSECUTOR; and  
WILLIAM H. HURST, CLERK OF THE COURT.

YOU AND EACH OF YOU, please take notice that the above-named Defendant will call for hearing his Motions on the 3rd day of July, 2007 at the hour of 10:00 o'clock A.M., in the above entitled courtroom, Canyon County Courthouse, before the Honorable Judge Petrie.

DATED: This 21 day of June, 2007.

  
\_\_\_\_\_  
RICHARD L. HARRIS



**CERTIFICATE OF SERVICE**

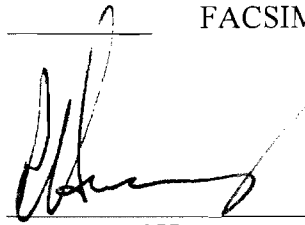
I the undersigned do hereby certify that a true and correct copy of the foregoing instrument was served on the following this 21 day of June, 2007.

DAVID L. YOUNG  
Canyon County Prosecutor  
Canyon County Courthouse  
1115 Albany Street  
Caldwell, Idaho 83606

\_\_\_\_\_  
UNITED STATES MAIL

\_\_\_\_\_  
✓  
COURTHOUSE BASKET

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FACSIMILE



\_\_\_\_\_  
RICHARD L. HARRIS

dm

DAVID L. YOUNG  
CANYON COUNTY PROSECUTING ATTORNEY  
Canyon County Courthouse  
1115 Albany  
Caldwell, Idaho 83605

Telephone: (208) 454-7391

FILED  
A.M. P.M.

JUL 02 2007

CANYON COUNTY CLERK  
B RAYNE, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

THE STATE OF IDAHO	)	
	)	CASE NO. CR0705446
Plaintiff,	)	
	)	<b>STATE'S RESPONSE TO</b>
vs.	)	<b>DEFENDANT'S MOTION</b>
	)	<b>TO DISMISS</b>
SIMONA MANZANARES,	)	
	)	
Defendant.	)	
_____	)	

COMES NOW, CHRIS TOPMILLER, Deputy Prosecuting Attorney, Canyon County,  
State of Idaho, and hereby responds to the Defendant Simona Manzanares' Motion to Dismiss.  
For the reasons stated below, the State urges the Court to deny the Defendant's motion.

**I. INTRODUCTION.**

**A. Procedural history.** On February, 27<sup>th</sup> 2007, the state filed a criminal complaint  
against the Defendant, Simona Manzanares (hereinafter Manzanares) charging her with violating

STATE'S RESPONSE TO DEFENDANT'S  
MOTION TO DISMISS

1

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I.C. 18-8504, and I.C 18-1805, recruiting criminal gang members and supplying firearms to criminal gang members, respectively. Manzanares was arraigned and her case was set for a preliminary hearing. After being continued for a brief period, Manzanares waived her right to a preliminary hearing and was arraigned in the District Court on April 13, 2007. Manzanares subsequently filed a motion to dismiss based on the purported unconstitutionality of the charged statutes on June 12, 2007, and followed it with a supplemental motion to dismiss at a later date. This response followed.

**B. Summary of issues.** Manzanares has raised a number of constitutional challenges in her brief, both to the general validity of the statute on its face, and as applied to her. The State notes at the outset that the constitutional doctrines outlined below are overlapping and complementary, and are broken down here into discrete parts to aid in identifying and clarifying the claims made by the Defendant. The issues and the relevant legal principles raised by her motion, in no particular order, are thus briefly summarized as follows:

1. *The presumption of validity.* Manzanares asserts that both statutes are constitutionally infirm on their face and as applied to her. Her claim implicates the longstanding judicial presumption that statutes passed by the State Legislature carry a strong presumption of validity, and the movant carries the burden of proving their invalidity. Courts are obliged to construe a statute in such a way as to uphold its constitutionality, if possible.

2. *Overbreadth.* Manzanares, in her brief, asserts that I.C 18-8504 impermissibly criminalizes speech and self expression. Manzanares is in effect saying that the statute in question is facially overbroad. Overbreadth is a first amendment doctrine which essentially asks

a reviewing court to consider whether a statute impacts a substantial amount of constitutionally protected conduct-such as speech-while criminalizing other activity.

3. *Vagueness.* Manzanares also asserts that the statute in question is vague as applied to her. Vagueness implicates the notice requirements of procedural due process, wherein the Federal Courts have held that a statute must be worded with sufficient clarity and definiteness to to permit ordinary people to understand what conduct is prohibited and to prevent arbitrary and discriminatory enforcement.

4. *Free association.* Manzanares asserts that the statute in question impinges upon her right to peaceably assemble with whom she chooses. This implicates the first Amendment doctrine of free association. As a general rule, the State may not impinge upon activities which allow individuals to join groups and to associate with others holding similar beliefs, and the State may not criminalize conduct based on a given person's abstract beliefs.

5. *Fundamental rights analysis and strict scrutiny.* Manzanares claims that charging her with I.C 18-8505 impinges upon her rights under the second amendment to the Federal Constitution and Idaho's State Constitution. Manzanares asserts that the right in question is fundamental and thus implicates substantive due process. Fundamental rights are those enumerated and unenumerated rights which cannot be abrogated by the State unless the State has a compelling interest and that interest is narrowly tailored to achieve that government interest. If the right is *not* a fundamental right, then the statute in question is analyzed to determine whether or not it has a rational basis in either its application or on its face.

6. *Incorporation.* Manzanares seeks in her brief to have State law declared invalid, but she does so by relying in part on claims made under the Federal Constitution. The Federal

Constitution is applicable to State actors only in those areas where the Federal Constitution has been grafted on to include the several states via the 14<sup>th</sup> amendment, a process known as "incorporation." These claims are analyzed below.

## **II. ANALYSIS OF CLAIMS.**

### **A. BOTH STATUTES SHOULD BE UPHELD AS VALID, BECAUSE BOTH STATUTES CARRY A STRONG PRESUMPTION OF CONSTITUTIONALITY AND MANZANARES HAS FAILED TO MEET HER BURDEN OF SHOWING OTHERWISE.**

Manzanares asserts that both statutes are constitutionally infirm on their face and as applied to her. Her claim implicates the longstanding judicial presumption that statutes passed by the State Legislature carry a strong presumption of validity, and the movant carries the burden of proving their invalidity. *State v. Morton*, 140 Idaho 235, 237 (2004). Courts are obliged to construe a statute in such a way as to uphold its constitutionality, if possible. *Id.*

The statutes provide, in relevant part:

**18-8504. RECRUITING CRIMINAL GANG MEMBERS.** (1) A person commits the offense of recruiting criminal gang members by:

- (a) Knowingly soliciting, inviting, encouraging or otherwise causing a person to actively participate in a criminal gang; or
- (b) Knowingly using force, threats, violence or intimidation directed at any person, or by the infliction of bodily injury upon any person, to actively participate in a criminal gang.

**18-8505. SUPPLYING FIREARMS TO A CRIMINAL GANG.**

- (1) A person commits the offense of supplying firearms to a criminal gang if the person knows an individual is a gang member and supplies, sells or gives possession or control of any firearm to that gang member.
- (2) Subsection (1) of this section shall not apply to a person who is convicted as a principal to the offense committed by the recipient of the firearm.

Criminal gang is further defined in **I.C 18-8502**:

(1) "Criminal gang" means an ongoing organization, association, or group of three (3) or more persons, whether formal or informal, that has a common name or common identifying sign or symbol, whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity, having as one (1) of its primary activities the commission of one (1) or more of the criminal acts enumerated in subsection (3) of this section.

Note that the statute criminalizes certain specific *acts*, namely recruiting gang members, which is further defined as a criminal enterprise that has as its ongoing goal criminal gang activity. Keep in mind that a "criminal gang," as defined in this section, isn't simply a group of people with common interests and common goals. The legislation is quite specific on the *acts* that will trigger the statute's applicability. Nowhere in the statute is *advocating* for a gang prohibited. Nor is an abstract belief in the efficacy, viability and societal benefits of the gang prohibited. Criminalizing acts while allowing for the advocacy of such acts is not uncommon in the code; indeed, acts-and not thought-are all a criminal statute can reach, and Manzanares has failed to show how thought, speech and advocacy are prohibited by these statutes.

Manzanares has also not met her burden of demonstrating that this language is overbroad, vague, or impacts her right to free association. Rather, she has simply asserted-as a conclusion- that the language of the statutes violates certain constitutional rights, but she has not stated with any specificity the manner in which her rights have been violated. Further, she has not made any attempt to parse the statute to determine which parts of it are constitutional v. unconstitutional. Its certainly not self-evident that any one of these statutes implicate constitutionally protected rights, and even if it were, the Court would be obligated to uphold those portions of the statutes which do not implicate protected rights. Accordingly the Court should grant the statutes the strong presumption of validity to which they are entitled.

**B. IC 18-8504 SHOULD BE UPHELD AS VALID, BECAUSE MANZANARES HAS NOT DEMONSTRATED THAT THE STATUTE IMPACTS CONSTITUTIONALLY PROTECTED CONDUCT IN A SUBSTANTIAL MANNER.**

Manzanares, in her brief, asserts that **I.C 18-8504** impermissibly criminalizes speech and self expression. Manzanares is in effect saying that the statute in question is facially overbroad. Overbreadth is a first amendment doctrine which essentially asks a reviewing court to consider whether a statute impacts a substantial amount of constitutionally protected conduct-such as speech-while criminalizing other activity. *U.S.C.A, Amendment I; Morton*, 140 Idaho at 236.

Because Manzanares has not stated how the statute is overbroad as applied to her, the court should construe her challenge as a facial challenge to the validity of the statute. Statutes are not unconstitutional due to facial overbreadth unless the overbreadth is not only real, but substantial as well, judged in relation to the statutes' plainly legitimate sweep. *Id.* To defeat a challenge of overbreadth, the conduct to be prohibited must be adequately defined by state law and criminal responsibility may not be imposed without an element of intent. *Id* at 237. Overbreadth will not be deemed "substantial" if despite some possibly impermissible application, the remainder of the statute covers a whole range of easily identifiable and constitutionally proscribable conduct. *State v. Wees*, 138 Idaho 119, 122 (Ct. App. 2002)

Manzanares fails to assert, in any way, how the statute reaches constitutionally protected speech or conduct. So long as a statute limits it reach to prohibited acts and does not criminalize protected speech, it cannot be said to be "overbroad" in any sense of the word. Even if the gang recruitment statute were to in some real way, affect a person's right to free speech or advocacy, the statute should still be upheld as valid, because the overbreadth must be *substantial*, not just real, and

a reviewing court is required to construe the statute in such a way as to uphold its validity.

Construed in such a way, its clear that the gang recruitment statute (1) proscribes certain acts, not thought; (2) possesses the required intent element of “knowingly” and (3) does not substantially impair a person’s right or ability to advocate on behalf of a gang.

**C. I.C 18-8504 SHOULD BE UPHELD AS APPLIED TO MANZANARES, BECAUSE THE REQUIREMENTS OF NOTICE AND DUE PROCESS HAVE BEEN SATISFIED BY THE LANGUAGE OF THE STATUTE.**

Manzanares also asserts that the statute in question is vague as applied to her. Vaguess implicates the notice requirements of procedural due process, wherein the federal courts have held that a statute must be worded with sufficient clarity and definiteness to to permit ordinary people to understand what conduct is prohibited and to prevent arbitrary and discriminatory enforcement. *U.S.C.A. Amendment XIV; State v. Casano*, 140 Idaho 461, 464 (Ct. App. 2004). Specifically Manzanares alleges that the charging language used in Count I, which charges a violation of **I.C. 18-8504**, is “vague to the point of being meaningless” and she is unable to adequately defend herself against the charge. In short, Manzanares is generally claiming that the statute fails to give adequate notice as to what conduct is proscribed, as well as claiming that the specific charging language used fails to give adequate notice of what conduct she is alleged to have done.

In order for the statute to be considered void-for-vagueness, a person of ordinary intelligence would be forced to guess at the meaning of the statute and what the statute proscribes would not be clearly defined. *Id.* For a statute to be considered facially valid, there is no requirement that every word be clearly defined. *Id.* Such is not the case here. **I.C 18-8504** clearly defines what conduct is prohibited, what elements are required to prove the conduct, and



the mental state required. The statute actually goes further than the law requires, because in the definitions sections referenced above, it defines “criminal gang,” and “criminal gang member,” and lists the acts which constitute a pattern of criminal gang activity. Compare **I.C 18-8504** with *Casano, infra* which upheld the validity of a statute which criminalized and provided penalties for killing a “trophy deer” and then defined a trophy deer as one measured by Boone and Crockett standards, which were not listed in the statute. Clearly, the gang recruitment statute is not unconstitutionally vague as its meaning is easily understood and its terms are clearly defined.

There are two separate issues regarding Manzanares’ allegation that the charging document was vague as applied to her. The first is the jurisdictional claim, easily disposed of here. Jurisdictionally, all the charging document requires is that the information contains a statement of the territorial jurisdiction of the court and a citation to the applicable section of the Idaho Code. *State v. Quintero*, 141 Idaho 619, 622 (2005). Both are present here, so the information is not jurisdictionally defective. Challenges to the information on due process grounds, such as whether the charging document sufficiently advises the defendant of the nature of the charge, must be raised prior to trial, pursuant to I.C.R 12.

In order to satisfy due process, the information must contain the following elements. A legally sufficient information is a plain, concise, and definite written statement of the essential facts constituting the offense charged. I.C. §§ 19-1303, 19-1409 through 19-1418; I.C.R. 7(b); *State v. Darbin*, 109 Idaho 516, 519, 708 P.2d 921, 924 (Ct.App.1985). The sufficiency of an information ultimately depends on whether it fulfills the basic functions of the pleading instrument. *State v. Windsor*, 110 Idaho 410, 417, 716 P.2d 1182, 1189 (1985). The sufficiency of an information is tested by a functional analysis encompassing two inquiries: (1) whether the pleading

contains the elements of the offense charged and fairly informs the defendant of the charge which must be defended against; and (2) whether the information enables the defendant to plead an acquittal or conviction in bar of future prosecutions for the same offense. *Hamling v. United States*, 418 U.S. 87, 117, 94 S.Ct. 2887, 2907, 41 L.Ed.2d 590 (1974). An information must be specific enough to advise a defendant as to the particular section of the statute he or she is being charged with having violated and, in addition, must set forth a concise statement of the facts constituting the alleged offense sufficiently stated that the particular offense may be identified with certainty as to time, place and persons involved. *State v Owen*, 129 Idaho 920 (Ct. App. 1997). Additionally, ICR 7(e) allows the state to amend the charge prior to the close of the evidence, should amendments be required to conform with the evidence. The charging language in both the charged counts comports with the Court's holding and with the rule. Both counts list the venue of the offense; both counts state the requisite mental element; both counts list an approximate date, and both counts describe the conduct that the defendant is alleged to have committed. In short, both counts comport with the due process requirements of Idaho Law and the 14<sup>th</sup> Amendment.

**D. I.C 18-8504 SHOULD BE UPHOLD ON ITS FACE AND AS APPLIED BECAUSE MANZANARES RIGHT TO FREE ASSOCIATION IS NOT IMPLICATED BY THE GANG STATUTE.**

Manzanares asserts that the statute in question impinges upon her right to peaceably assemble with whom she chooses. This implicates the first Amendment doctrine of free association. As a general rule, the state may not impinge upon activities which allow individuals to join groups and to associate with others holding similar beliefs, and the state may not criminalize conduct based on a given individual's abstract beliefs. *U.S.C.A. Amendment I*. These protections

prohibit imposition of a criminal sentence because of a defendant's abstract beliefs. *State v. Warfield*, 136 Idaho 376, 378 (Ct. App. 2001)(upholding a sentence where the judge based the sentence in part on the racist beliefs of the defendant).

Again, Manzanares has failed to demonstrate how the cited statute imposes on her right to assemble peaceably or to consort with whomever she chooses. Nor has she demonstrated how the statute would create impermissible burdens to other potential litigants to assemble peaceably. Rather, Manzanares has simply stated as self-evident that her alleged recruitment efforts hypothetically equate to her right to assemble freely. Given that "criminal gang" is defined by certain other criminal acts, it cannot be the case that the legislature is prohibiting her from associating with others of her choosing, nor does it even prohibit her from associating with gang members. It prohibits the act of recruiting others into a criminal gang. As such, Manzanares still enjoys the right to associate with whomever she chooses. The fact that the statute prohibits certain types of activities while associating with others is unsurprising. Most criminal statutes do exactly that.

**E. THE COURT SHOULD UPHOLD THE VALIDITY OF I.C 18-8505, BECAUSE EVEN IF POSSESSING A GUN IS A FUNDAMENTAL RIGHT UNDER THE IDAHO STATE CONSTITUTION, THE STATE HAS A COMPELLING INTEREST IN REGULATING THAT RIGHT.**

Manzanares claims that charging her with **I.C 18-8505** impinges upon her rights under the second amendment to the Federal constitution and Idaho's state constitution. *U.S.C.A Amendment II; Idaho Constitution Article I, section 11*. Manzanares asserts that the right in question is fundamental and thus implicates substantive due process. Fundamental rights are those enumerated and unenumerated rights which cannot be abrogated by the State unless the state has a

compelling interest and that interest is narrowly tailored to achieve that government interest.

*Bradbury v. Idaho Judicial Council* 136 Idaho 63, 69 (2001). If the right is *not* a fundamental right, then the statute in question is analyzed to determine whether or not it has a rational basis in either its application or on its face. A “rational basis” for a law, in other words, means that the reason for the deprivation of life, liberty or property must not be so inadequate as to be arbitrary. *Id.*

Manzanares has made her claim pursuant to both the second Amendment to the Federal Constitution and to the relevant portions of the Idaho Constitution, cited above. The state notes that the Second Amendment is inapplicable in this context, because the Second Amendment has never been incorporated to the states via the 14<sup>th</sup> Amendment. *See Generally Illinois v. Marin*, 342 Ill.App.3d 716 (2003), *Hickman v. Block*, 81 F.3d 98, 99 (9th Cir.1996). The Second Amendment, and any limitations it imposes on legislation, is applicable only to the Federal Government. Notwithstanding the Second Amendment, however, Manzanares has raised her claim under the Idaho Constitution, which does grant, in relevant part, a right to possess firearms:

**SECTION 11. RIGHT TO KEEP AND BEAR ARMS.** The people have the right to keep and bear arms, which right shall not be abridged; but this provision shall not prevent the passage of laws to govern the carrying of weapons concealed on the person nor prevent passage of legislation providing minimum sentences for crimes committed while in possession of a firearm, nor prevent the passage of legislation providing penalties for the possession of firearms by a convicted felon, nor prevent the passage of any legislation punishing the use of a firearm.

At the outset, the state notes that Manzanares is not charged with possession of a firearm, nor does **I.C 18-8505** allow for a possession charge. Nothing in **I.C. 18-8505** prevents Manzanares or

anyone else from “keeping and bearing arms.” Rather, the charged crime is supplying firearms to a criminal gang. Note also that the legislature has seen fit to modify this right significantly with respect to the manner of possession, possession of weapons by felons and by creating sentence enhancements for the use of a firearm in a felony. The Second Amendment contains no such qualifications, and yet the same type of restrictions have been upheld by the Federal courts with respect to federal law. Idaho caselaw offers little guidance in this area, but federal law can be argued by analogy. Federal law prohibits felons from possession firearms. It also prevents anyone convicted of a domestic violence charge (including a misdemeanor) or anyone subject to a restraining order from possessing a firearm. In addition (and of particular relevance to this the instant case), federal law prohibits the transfer and/or dealing in firearms by anyone who is not a licensed dealer. *18 U.S.C.A Section 922*. This list is not exhaustive. All of these provisions modify the plain language of the Second Amendment. These restrictions have been upheld time and time again, even in those Federal Circuits where the 2<sup>nd</sup> Amendment is construed to be an individual right (the minority view) rather than a collective right (the majority view) *See e.g. Love v. Pepersack*, 47 F.3d 120, 122 (4th Cir.1995), *United States v. Warin*, 530 F.2d 103, 106 (6th Cir.1976), *Hickman v. Block*, 81 F.3d 98, 99 (9th Cir.1996). Consider the following passage from *United States v. Emerson*:

We also note that recognition that the Second Amendment does not prohibit legislation such as former § 1202(a)(1) is in no way inconsistent with an individual rights model. *See, e.g., Robertson v. Baldwin*, 165 U.S. 275, 17 S.Ct. 326, 329, 41 L.Ed. 715 (1897) (quoted in note 17, *supra*) (bill of rights protections are not absolutes but subject to exceptions, so the First Amendment does not permit the publication of libels, the Second Amendment “is not infringed by laws prohibiting the carrying of concealed weapons,” the double jeopardy clause does not preclude retrial where the jury fails to agree, the confrontation clause does not exclude dying declarations, etc.). *See also Robert Dowlut, The Right to Arms: Does the Constitution or the Predilection of Judges Reign?*, 36 Okla L.Rev. 65, 96 (1983) (“Colonial and English societies of the eighteenth century, as well as their

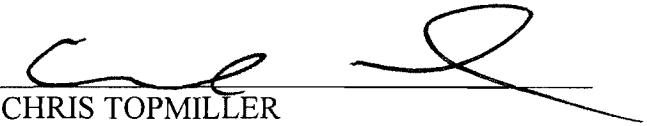
modern counterparts, have excluded infants, idiots, lunatics, and felons [from possessing firearms]."); Stephen P. Halbrook, What the Framers Intended: A Linguistic Analysis of the Right to "Bear Arms", 49 Law & Contemp. Probs. 151 (1986) ("violent criminals, children, and those of unsound mind may be deprived of firearms...."); Don B. Kates, Jr., Handgun Prohibition and the Original Meaning of the Second Amendment, 82 Mich. L. Rev. 204, 266 (1983) ("Nor does it seem that the Founders considered felons within the common law right to arms or intended to confer any such right upon them."). We further observe that Lewis presented no Second Amendment challenge to the § 1202(a)(1) conviction and the Second Amendment was not at issue there.

270 F.3d 203 (2001).

Assuming *arguendo* then, that possession of a firearm can be said to be a fundamental right then, its quite clear that the right can still be modified either by changing the language of the Constitution (Idaho) or upholding the validity of Federal Statutes that impinge on that right. Even if possessing a gun is a fundamental right, the state has a compelling interest in regulating the transfer, disposal, manner and type of possession of a weapon, and **I.C 18-8505** is narrowly tailored to advance that compelling interest.

But while the possession of a firearm may be said to be a fundamental right, Manzanares does not assert-and the Idaho Constitution does not support- the idea that the procurement and transfer of a weapon for a criminal enterprise-the crime alleged here- implicates a fundamental right. Therefore the Court ought to consider, in addition, to the other arguments, whether the state has a rational basis in preventing and criminalizing supplying firearms to a criminal gang. Clearly, the state's interest in preventing criminal gangs from getting guns is not arbitrary; the state therefore has a rational basis in regulating supplying firearms to an identified gang or gang member.

DATED this 2 day of July, 2007.

  
CHRIS TOPMILLER  
Deputy Prosecuting Attorney

STATE'S RESPONSE TO DEFENDANT'S  
MOTION TO DISMISS

HEREBY CERTIFY That a true and correct  
copy of the foregoing State's Response to  
Defendant's Motion to Dismiss was delivered  
to the attorney for the Defendant by placing  
said copy in Richard Harris's basket located at  
the Clerk's Office, on or about the  
2 day of July, 2007.



CHRIS TOPMILLER  
Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON  
PRESIDING: **GREGORY M. CULET** DATE: JULY 27, 2007

THE STATE OF IDAHO,	)	COURT MINUTES
	)	
Plaintiff,	)	CASE NO: CR 2007-5446*C
	)	
vs.	)	TIME: 9:00 A.M.
	)	
SIMONA LIZA MANZANARES,	)	REPORTED BY: Nancy Schwartz
	)	Independent
Defendant.	)	
_____	)	DCRT 1 (844-1004)

This having been the time heretofore set for **defense's motion to dismiss** in the above entitled matter, the State was represented by Mr. Chris Topmiller, Deputy Prosecuting Attorney for Canyon County, and the defendant appeared in court with counsel, Mr. Richard Harris.

The Court noted the pending motion and inquired if the parties were prepared to proceed with argument.

Each of counsel indicated they were prepared to proceed with argument.

Mr. Harris presented argument in support of the motion to dismiss.

Mr. Topmiller presented argument in objection to the motion to dismiss.

Mr. Harris presented further argument in support of the motion to dismiss.

The Court presented its findings and conclusions and stated that it would deny the motions to dismiss on both issues before the Court, however, it does find that Count



I of the Information to be defective but would allow the State to file a motion to amend the Information, which must be filed within seven (7) days or Count I would be dismissed, as the Court believes that if it did not allow the State to file the motion to amend the Information it would be an abuse of discretion. Further, the Court would deny the motion to dismiss on the constitutional grounds as the statute does not appear to be over broad but would note that it may be revisited when the case gets closer to trial and the application of such comes in.

The Court stated that it would attach a transcript of its ruling to be attached as an addendum so there is no question as to its ruling.

The defendant was continued released on the bond previously posted.

- - - -

  
\_\_\_\_\_  
Deputy Clerk

dm

AUG 01 2007

DAVID L. YOUNG  
CANYON COUNTY PROSECUTING ATTORNEY  
Canyon County Courthouse  
1115 Albany  
Caldwell, Idaho 83605  
Telephone: (208) 454-7391

CANYON COUNTY CLERK  
J TUCKER, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

THE STATE OF IDAHO,	)	
	)	CASE NO. CR0705446
Plaintiff,	)	
	)	<b>MOTION TO AMEND INFORMATION</b>
vs.	)	<b>AND NOTICE OF HEARING</b>
	)	
SIMONA MANZANARES,	)	
	)	
Defendant.	)	
_____	)	

COMES NOW, CHRIS TOPMILLER, of the Canyon County Prosecuting  
Attorney's Office, Canyon County, Idaho, and does hereby move the Court to amend the  
Information in the above-entitled case to clarify Count I.

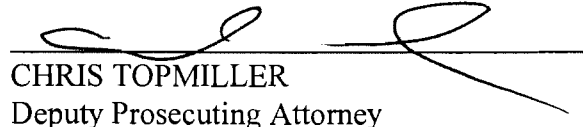
**NOTICE OF HEARING**

Notice is hereby given that a hearing on the Motion to Amend Complaint filed in  
the above entitled matter is scheduled for the 7<sup>th</sup> day of August, 2007 at the hour of 9:00 a.m.,  
before the Honorable Gregory M. Culet.

MOTION TO AMEND INFORMATION  
AND NOTICE OF HEARING 1  
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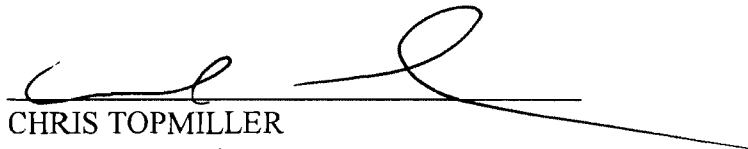
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DATED This 7 day of August, 2007.



CHRIS TOPMILLER  
Deputy Prosecuting Attorney

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion and Notice of Hearing was personally delivered to the Defendant's attorney of record by placing said copy in the basket of RICHARD HARRIS located at the Clerk's office on or about the 7 day of August, 2007.



CHRIS TOPMILLER  
Deputy Prosecuting Attorney

MOTION TO AMEND INFORMATION  
AND NOTICE OF HEARING 2  
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000118

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON  
PRESIDING: **GREGORY M. CULET** DATE: AUGUST 7, 2007

THE STATE OF IDAHO,	)	COURT MINUTES
	)	
Plaintiff,	)	CASE NO: CR 2007-5446*C
	)	
vs.	)	TIME: 9:00 A.M.
	)	
SIMONA LIZA MANZANARES,	)	REPORTED BY: Debora Kreidler
	)	with Tucker and Associates
Defendant.	)	
_____	)	DCRT 1 (911-920)

This having been the time heretofore set for **status conference** in the above entitled matter, the State was represented by Mr. Gearld Wolff, Deputy Prosecuting Attorney for Canyon County, and the defendant appeared in court with counsel, Mr. Richard Harris.

The reviewed prior proceedings and indicated that at the last proceeding it had indicated that it would order Count I of the Information dismissed unless the State filed a motion to amend the Information. The State had filed said motion and had prepared an Amended Information which would change the language in Count I, however, it would not change the charge in any way.

Mr. Wolff advised the Court that the Amended Information would simply clean up the language set forth in Count I of the Information. Further, it was his understanding that Mr. Harris and Mr. Topmiller, who is the assigned attorney, in this case for the

State, would stipulate that upon the motion being granted to amend Count I, this case would be remanded back to Magistrate Court for Preliminary Hearing so that Mr. Harris could expand upon the record regarding further constitution issues if he so chooses.

Mr. Harris advised the Court that was his understanding of the agreement; however, he would like to advise the Court that he had not received a copy of the motion to amend the Information or a copy of the proposed Amended Information, although he had reviewed the State's copy.

In answer to the Courts inquiry, Mr. Harris indicated that he had reviewed the proposed Amended Information and would accept the proposed form of the Amended Information.


Mr. Wolff indicated that there was a stipulation reached to remand this case back to Magistrate Court for Preliminary Hearing.

The Court indicated that it had no problem remanding this case back to Magistrate Court; however, it would require a written stipulation an order.

The Court ordered the jury trial currently set vacated.

The defendant was continued released on the bond previously posted.

----



Deputy Clerk

dm

**F I L E D**  
A.M. 1:20 P.M.  
**AUG 07 2007**  
CANYON COUNTY CLERK  
S. BRIGGS, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

THE STATE OF IDAHO,	)	
	)	CASE NO. CR0705446
Plaintiff,	)	
	)	<b>ORDER GRANTING MOTION</b>
vs.	)	<b>TO AMEND INFORMATION</b>
	)	
SIMONA MANZANARES,	)	
	)	
Defendant.	)	
_____	)	

Based upon the Plaintiff's Motion to Amend Information,

IT IS HEREBY ORDERED that the complaint filed in the above entitled action shall  
be amended to clarify Count I.

DATED this 7 day of August, 2007.

  
\_\_\_\_\_  
Judge

ORDER GRANTING MOTION  
TO AMEND

1

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**000121**

dm

DAVID L. YOUNG  
CANYON COUNTY PROSECUTING ATTORNEY  
Canyon County Courthouse  
1115 Albany  
Caldwell, Idaho 83605  
Telephone: (208) 454-7391

FILED  
AUG 07 2007  
A.M. 1:50 P.M.

AUG 07 2007  
CANYON COUNTY CLERK  
S. BRIGGS, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

THE STATE OF IDAHO

Plaintiff,

vs.

SIMONA LISA MANZANARES,  
DOB: [REDACTED]

Defendant.

)  
) CASE NO. CR0705446  
)  
) **AMENDED INFORMATION**  
) for the crime of:  
)  
) **COUNT I - RECRUITING CRIMINAL**  
) **GANG MEMBERS**  
) Fel., I.C. 18-8504(a)  
) **COUNT II - SUPPLYING FIREARMS**  
) **TO A CRIMINAL GANG**  
) Fel., I.C. 18-8505  
)

David L. Young, Prosecuting Attorney in and for the County of Canyon, State of Idaho, who in the name and by the authority of said state prosecutes in its behalf, in proper person comes into the above entitled Court and informs said Court that the above named Defendant stands accused by this Information of the crime of

RECRUITING CRIMINAL GANG MEMBERS  
Felony  
Idaho Code Section 18-8504(a)

AMENDED INFORMATION  
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CT

SUPPLYING FIREARMS TO A CRIMINAL GANG  
Felony  
Idaho Code Section 18-8505

committed as follows:

COUNT I

That the Defendant, SIMONA LISA MANZANARES, on or about the ~~21<sup>st</sup>~~ <sup>2<sup>nd</sup></sup> day of ~~September~~, 2006, to the 2<sup>nd</sup> day of February, 2007, in the County of Canyon, State of Idaho, did knowingly solicit, invite, encourage or otherwise cause a person, Jackie Trinidad, to actively participate in a criminal gang, The East Side Locas.

1<sup>st</sup> day of April  
GP  
8/30/07

All of which is contrary to **Idaho Code**, Section 18-8504(a) and against the power, peace and dignity of the State of Idaho.


COUNT II

That the Defendant, SIMONA LISA MANZANARES, on or about the ~~13<sup>th</sup>~~ <sup>1<sup>st</sup></sup> day of ~~October~~, 2006, in the County of Canyon, State of Idaho, did knowingly supply, sell, or give possession or control of a firearm to Jackie Trinidad who the defendant knew to be a criminal gang member.

May 1<sup>st</sup> to May 15  
GP  
8/30/07  
#398

All of which is contrary to **Idaho Code**, Section 18-8505 and against the power, peace and dignity of the State of Idaho.

DATED This 31 day of ~~March~~ <sup>July</sup>, 2007.

  
DAVID L. YOUNG  
Prosecuting Attorney for  
Canyon County, Idaho

AMENDED INFORMATION

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FILED  
A.M. P.M.  
AUG 07 2007  
CANYON COUNTY CLERK  
E BULLARD, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO,	)	
	)	
	)	CASE NO CR-2007-5446*C
	)	
Vs	)	
	)	
	)	ORDER DENYING DEFENSE
SIMONA LIZA MANZANARES,	)	MOTION TO DISMISS
	)	
	)	
Defendant,	)	
	)	

The above-entitled matter came before this Court on the 27<sup>th</sup> of July, 2007, on the defendant's Motion to Dismiss. Richard Harris appeared as counsel for the defendant, who was also present. Chris Topmiller, Deputy Prosecuting Attorney, appeared on behalf of the State.

1. Motion to Dismiss based on constitutionality of the charging statutes.

After the presentation of argument, the Court entered its findings and conclusions on the record and thereafter denied the motions to dismiss.

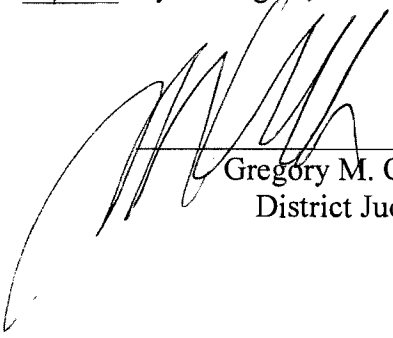
The Court indicated at that time, however, that it would attach a transcript of that portion of the proceeding in which the Court made its ruling on the constitutional issues presented, and therefore, that is attached to this order.

000124

2. Motion to dismiss based on vagueness of charging language.

The Court did conditionally grant the defendant's motion to dismiss count 1, but allowed the State seven (7) days from the hearing to file a motion to amend the Information with more specific language with regard to count 1.

BE IT SO ORDERED this 9<sup>th</sup> day of August, 2007.



---

Gregory M. Culet  
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing order was forwarded to the following persons on this 7 of August, 2007.

David Young  
Canyon County Prosecuting Attorney  
Caldwell, Idaho 83605

Richard Harris  
Attorney at Law  
PO Box 1438  
Caldwell, ID 83606

E Bullard  
Deputy Clerk

IN THE DISTRICT COURT OF THE THIRD  
JUDICIAL DISTRICT OF THE STATE OF IDAHO,  
IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO,	)
	)
Plaintiff,	)
	) Case No.
vs.	) CR-2007-0005446-C
	)
SIMONA LIZA MANZANARES,	)
	)
Defendant.	)
_____	)

BEFORE HONORABLE GREGORY M. CULET  
MOTION TO DISMISS  
JULY 27, 2007

REPORTED BY:  
NANCY SCHWARTZ, CSR NO. 483  
Notary Public

## APPEARANCES

For the Plaintiffs:

CANYON COUNTY PROSECUTING ATTORNEYS OFFICE

Attorneys at Law

BY: CHRIS TOPMILLER

1115 Albany Street

Caldwell, Idaho 83605

(208) 454-7391

For the Defendant:

RICHARD L. HARRIS LAW OFFICE

Attorney at Law

BY: RICHARD L. HARRIS

1023 Arthur Street

Caldwell, Idaho 83605

(208) 459-1588

"Overbreadth will not be deemed substantial if, despite some possible impermissible application, the remainder of the statute . . . covers a whole range of easily identifiable and constitutionally prescribable . . . conduct." This inquiry has also been framed as whether a statute is unconstitutional in the substantial portion of the cases to which it applies." And the Supreme Court here cites: *Regan v. Time, Inc.*, 468 Idaho, U.S. 641, at 650. The Wees court goes on to state: "If this query can be answered in the negative, the facial overbreadth challenge fails." There are other cases involved here.

State versus Morton, again, 140 Idaho 235 at page 237 citing the US Supreme Court decision, the Osborne case 495 U.S. at 112. "To defeat a challenge of overbreadth, the conduct to be prohibited must, as written or authoritatively construed, be adequately defined by the applicable state law." In other words, statutes must sufficiently narrow the scope of their prohibitions to avoid criminalizing an intolerable range of constitutionally protected conduct.

I'm citing *State v. Korsen* again where the court has stated at page 714 through 715. "To find

THE COURT: *State versus Poe*, 139 Idaho 885. *State versus Korsen*, 138 Idaho 706, cited by counsel, I believe. "The party challenging a statute on constitutional grounds bears the burden of establishing that the statute is unconstitutional and 'must overcome a strong presumption of validity.'" That is also *State versus Morton* 140 Idaho 235.

Now, again, the *Korsen* case, 138 Idaho 706, at page 714, it's a 2003 decision, "[A] statute will not be invalidated for overbreadth merely because it is possible to imagine some unconstitutional applications --" citations I'll omit -- "Rather 'there must be a realistic danger that the statute itself will significantly compromise recognized First Amendment protections of parties not before the Court.'" then a citation omitted, again -- "Therefore, the Supreme Court has developed a requirement that the overbreadth must be 'substantial' before the statute will be held unconstitutional on its face. Only if the statute 'intrudes upon a substantial amount of constitutionally protective conduct' may it be struck down for overbreadth." In *State versus Wees*, W-e-e-s, 138 Idaho 119 at page 122:

that a statute is facially overbroad, and therefore unenforceable as to everyone, and not just the defendant, requires a determination that is invalid in toto and therefore incapable of any invalid application."

All right. Let's talk about the standard for vagueness. "Civil or noncriminal statutes are not unconstitutionally vague if 'persons of reasonable intelligence can derive core meaning.'" Well, that is not applicable. These are not criminal.

Getting back to the criminal area, "The statute is --" Oh, by the way, that last case was *Kolar versus Cassia County*, 142 Idaho 346, but I'm not sure it's applicable even though I was initially considering that. Here is an Idaho case that addresses the same issue on criminal law. In the case of *State versus Shearer*, S-h-e-a-r-e-r, 136 Idaho 217 at 220. "A statute is unenforceable for vagueness if it 'fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by the statute and permits arbitrary or discriminatory enforcement.'"

The court also notes: "Although some

1 ambiguity is unavoidable in the English language,  
2 a statute that is so ambiguous that persons 'of  
3 common intelligence must necessarily guess at its  
4 meaning and differ as to its application' is  
5 unconstitutionally vague."

6 So, one of the things I'm going to analyze  
7 here, as I'm looking at these, I'm going to read  
8 through the statute in a moment and tie the  
9 sections together as they are charged. In other  
10 words, I will substitute in the statute, the  
11 language about what constitutes a gang and a gang  
12 membership and see how this plays out with this  
13 standard.

14 Again, "The vagueness doctrine is  
15 grounded upon the fundamental notion that penal  
16 statutes must define criminal offenses with  
17 sufficient definiteness to (1) give people a  
18 reasonable opportunity to know what is prohibited  
19 so that they may act accordingly --" Obviously,  
20 so the average person can know what they are not  
21 allowed to do. And "(2), avoid arbitrary and  
22 discriminatory enforcement." And I'm citing State  
23 versus Richards, 127 Idaho 31 at 37 through 38, a  
24 Court of Appeals decision.

25 They also cite in that decision the

1 United States Supreme Court and *Flippo*, Hoffman  
2 Estates 455 U.S. at 497 noting that: "Even though  
3 a law does not reach constitutionally protected  
4 conduct and therefore satisfies overbreadth  
5 standards, it may nevertheless be challenged on  
6 its face as unduly vague."

7 Now, I'm citing State versus Richards at  
8 page 39, "As the United States Supreme Court has  
9 stated: The Court, indeed, has recognized that the  
10 requirement of specific intent to do a prohibited  
11 act may avoid those consequences to the accused  
12 which may otherwise render a vague or indefinite  
13 statute invalid."

14 Let us take a look at -- I'm sorry, the  
15 code sections involved here are -- and  
16 constitutional sections are: 18-8505 Idaho Code,  
17 which is the charge alleged in Count II. "A person  
18 commits the offense of supplying firearms to a  
19 criminal gang if the person knows an individual is  
20 a gang member and supplies, sells, or gives  
21 possession or control of any firearm to that gang  
22 member." 18-8504, Recruiting Criminal Gang  
23 Members: "A person commits an offense of  
24 recruiting criminal gang members by: (a) Knowingly  
25 soliciting, inviting, encouraging or otherwise

1 causing a person to actively participate in a  
2 criminal gang --" and it defines "criminal gang,"  
3 which I'll address again in a minute -- "and a  
4 criminal gang member." Then, it makes reference to  
5 certain criminal acts, the substantial portion  
6 which are felonies.

7 We have Article 1, Section 11 of the  
8 Idaho Constitution, "Right to Bear Arms," is also  
9 applicable. State versus Woodward, 58 Idaho 385,  
10 a 1937 decision the Idaho Supreme Court in  
11 applying that constitutional provision held: "The  
12 legislature only has the power to 'regulate the  
13 exercise of this right,' that is, among other  
14 things, it may prohibit carrying concealed  
15 weapons, or prescribe the kind or character of  
16 arms that may or may not be kept, carried or used,  
17 and various other things of a regulatory  
18 character."

19 Let us take a look at the statute. "In this  
20 instance, a criminal gang is defined as a group who  
21 was engaged in a pattern of criminal gang activity  
22 and has at least one of its primary activities, the  
23 criminal acts enumerated -- one of the acts  
24 enumerated in subsection 3 of the statute." Most  
25 of all, if not all of those found in

1 subsection 3 are felonies. Article 1, Section 11  
2 allows the legislature also to limit a convicted  
3 felony, for example, from possessing a firearm.

4 So, the point is that the statute seems  
5 to be an attempt to exercise -- to regulate the  
6 exercise of the right to bear arms. It appears to  
7 be limited enough that it does not intrude upon a  
8 substantial amount of an individual's right to  
9 bear arms.

10 One of the points that I'm going to make  
11 on this one is if I'm finding at this stage if the  
12 statute is not overbroad -- this is first  
13 impression, if we get to trial and I'm framing  
14 jury instructions and I realize that I'm wrong,  
15 I'm going to reverse this. I'm not opening this  
16 up for reargument, but one of the things is this  
17 is the first case that I've had. This is first  
18 one we will come in with. We will get the  
19 evidence, and we will turn around and instruct the  
20 jury.

21 I want to reserve the right here that if  
22 I'm wrong, I'm not going to wait for three or five  
23 of my higher court levels to tell me. I'm going  
24 rule right then and redress this. But right now  
25 it appears that this falls -- that the statute

1 does not appear to be overbroad. I will read it  
2 again in a second in context to be sure.

3 On the vagueness issue -- let's talk  
4 about that. On the vagueness issue, to avoid  
5 violating 18-8504, the charge is Element 1,  
6 "The defendant knowingly solicited, invited, or  
7 encouraged or, otherwise, caused a person to  
8 actively participate in a criminal gang." So, you  
9 have "active conduct," not thought or not just  
10 comments about a gang, but active conduct on the  
11 defendant's part. And then, "participated in a  
12 criminal gang," so this person is actively --  
13 "alleged to actively participate and encouraging  
14 or causing a person to join an ongoing  
15 organization of three or more people with a common  
16 name identifying sign or symbol whose members  
17 individually or collectively engage in or have  
18 engaged in a pattern of criminal gang activity  
19 that constitutes one or more primary activities,  
20 the commission of a certain enumerated criminal  
21 act, most of which are felonies."

22 And the state's going to have to prove  
23 that as a basis of your claim beyond a reasonable  
24 doubt, but those are specific intent and specific  
25 knowledge. You're going to have to establish that

1 the defendant has knowledge of this. The reason  
2 that I'm pointing that out is, based on the  
3 language of the court in State versus Richards,  
4 the specific intent aspect of the crime tend to  
5 remove it from the otherwise unconstitutional  
6 application that this statute would affect  
7 everybody.

8 Looking at 18-8505, then, let's take a  
9 look at this in context. The state is going to  
10 have to prove that -- let me back up on the one  
11 about giving a firearm. So, what the law, even  
12 though you have to jump from section to section to  
13 determine it, the law doesn't prohibit anybody  
14 from giving a gun in this statute to somebody  
15 else, and it doesn't prohibit the person from  
16 giving a gun to somebody else who they don't know  
17 is a gang member. It prohibits the person from  
18 giving a gun to somebody that they know is a  
19 member of a criminal gang, and that is defined as  
20 somebody who is going to be breaking law or their  
21 group is defined as intending to break the law  
22 under these areas. Translation: It's designed to  
23 keep the guns out of the hands of the criminals,  
24 specific intent crime.

25 The next one is on 8505, "If a person

1 knows --" I'm sorry. I'm getting -- there are two  
2 statutes, and I just gave you the analysis of  
3 18-8505, which applied to guns, which is the one  
4 that I'm just getting into. Let me rephrase that  
5 again. That is, "Supplying firearms to a gang  
6 member if the person --" which would be  
7 Ms. Manzanara -- "knows an individual to be a  
8 gang member." Then, we have the definition of  
9 "criminal gang member" is "a person who she knows  
10 to engage in a pattern of criminal gang activity  
11 and who meets two or more of the criteria or  
12 admits to being a gang member identified, resides  
13 in or frequents a particular gang's area and  
14 adopts its style of dress and signs its tattoos,  
15 associates," et cetera.

16 There is more in there, but that goes on  
17 to point out that the state will have to establish  
18 that she knows this person to be that. And,  
19 again, it goes to specific intent crime. I think  
20 that that takes it out of the unconstitutional  
21 aspect of vagueness or overbreadth.

22 Both statutes are specific as to what a  
23 gang member is and a criminal gang, including hand  
24 signs, dress, tattoos, et cetera, and the conduct  
25 that is prohibited is very specific and limited.

1 As long as they are able to go from section to  
2 section and read this, the person with common  
3 intelligence would not have to guess the meaning of  
4 the statutes.

5 Now, that is my ruling. I believe --  
6 I will deny the motion to dismiss on the  
7 constitutional grounds. I've acknowledged that  
8 this may be revisited as we get closer to trial and  
9 the application of this comes in. But I believe  
10 that this case is going to be, one -- I don't know  
11 your evidence, but hard for the State to prove  
12 because you have all of these hoops to jump through  
13 that you have to prove. But, likewise, it also  
14 protects the defendant that she just can't be  
15 guilty by association. She has to know specific  
16 things at the time that she is alleged to have done  
17 that crime. And so, it takes it out of that  
18 overbroad and vague application.

19 Mr. Harris' argument is very clear and  
20 concise, and I think one that I'm looking forward  
21 to be second-guessed on, because I want to find out  
22 if I'm wrong on this.

23 However, what I'm going to do is order a  
24 transcript of my ruling portion of this hearing.  
25 By that, I mean, when we get to the portion of



1 where I started with the case law and cited the  
 2 case of State versus Poe, from that portion on  
 3 where I cited the standards of that decision there,  
 4 I'm going to order a transcript. And the court  
 5 will provide it. That will be attached as an  
 6 addendum to my decision so that nobody has to be  
 7 second-guessing what I'm doing and you have a clear  
 8 concise statement.

9 Further, I'm not going to order a  
 10 transcript on my own about the statute -- the  
 11 charge language. I think that is rather  
 12 straightforward.

13 Anything else for today?

14 MR. HARRIS: Well, I guess not. Just so  
 15 I'm clear, Count II stands as is.

16 THE COURT: Count I has to be amended.

17 MR. HARRIS: Count I is going to be  
 18 dismissed unless there is a --

19 THE COURT: Motion within seven days.

20 MR. HARRIS: An amendment filed within  
 21 seven days.

22 THE COURT: I think they have to file a  
 23 motion to amend and bring it in.

24 (The proceeding concluded.)  
 25

1 STATE OF IDAHO )  
 2 ) Ss.  
 3 County of Ada )  
 4

5 I, NANCY SCHWARTZ, Certified Court  
 6 Reporter No. 483 and Notary Public in and for the  
 7 State of Idaho, do hereby certify:

8 That said hearing was taken down by me in  
 9 shorthand at the time and place therein named and  
 10 thereafter reduced to computer type, and that the  
 11 foregoing transcript contains a true and correct  
 12 record of the said hearing, all done to the best  
 13 of my skill and ability.

14 I further certify that I have no interest  
 15 in the event of the action.

16 Witness my hand and seal this 31st day  
 17 of July 2006.

18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

My commission expires:  
 March 19, 2007



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ISB No. 1387

**F I L E D**  
A.M. *4:15* P.M.  
**AUG 09 2007**  
CANYON COUNTY CLERK  
J MEYERS, DEPUTY

Attorney For Defendant

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO	)	
	)	CASE NO. CR-2007-05446
Plaintiff,	)	
	)	
vs.	)	
	)	STIPULATION TO REMAND
SIMONZA MANZANARES	)	PROCEEDING FOR
	)	PRELIMINARY HEARING
Defendant.	)	
_____	)	

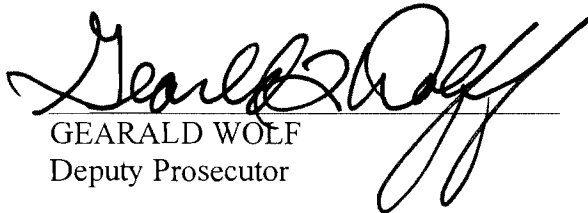
COMES NOW, RICHARD L. HARRIS, Attorney for the above-named Defendant and GEARALD WOLFF, Deputy Prosecuting Attorney and do hereby agree and stipulate as follows:

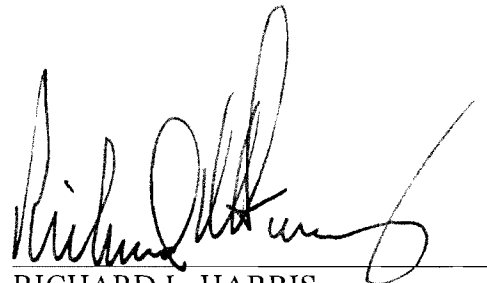
1. That previously in this action the Court conditionally dismissed Count One of the Information granting leave to the Prosecuting Attorney to file an Amended Information as to Count One.
2. That the Prosecuting Attorney on or about August 1, 2007 filed a Motion requesting leave to file an Amended Information per the Court's previous order and that an Amended Information has been filed by Order of the Court.

3. That because the Amended Information includes information not previously disclosed to the Defendant the parties hereto agree that this proceeding be remanded to the Magistrate's Division Of The District Court for the purpose of a Preliminary Hearing and it is agreed that the District Judge may enter a Order remanding this proceeding to the Magistrate Division of the District for a Preliminary Hearing.

DATED: This 9<sup>th</sup> day of August, 2007.

DAVID L. YOUNG  
Canyon County Prosecutor

  
GERALD WOLF  
Deputy Prosecutor

  
RICHARD L. HARRIS  
Attorney for Defendant